STATE OF MAINE
ANDROSCOGGIN, ss.

SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT
DOCKET NO. And-25-364
SRP-25-373

STATE OF MAINE

v.

DUANE HANSON

ON APPEAL FROM THE UNIFIED CRIMINAL DOCKET

BRIEF OF APPELLEE,

STATE OF MAINE

NEIL E. MCLEAN JR.
District Attorney
Prosecutorial District III

KATHERINE M. HUDSON-MACRAE
Maine Bar No. 005971
Assistant District Attorney
State's Attorney on Appeal
184 Main Street, Suite 400
Lewiston, Maine 04240
Androscoggin County
(207)-753-2521

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutions

Statutes

Court Rules

Secondary Sources

STATEMENT OF FACTS & PROCEDURAL HISTORY

As the jury rationally could have found beyond a reasonable doubt, the following wealth of evidence was established at the eight-day trial that Duane Hanson viciously, tortiously, and brutally assaulted [redacted] [redacted] from June to October 31, 2023. *State v. Hodgdon*, 2017 ME 122, ¶ 2, 164 A.3d 959. (*Generally* Trial Transcripts.) To understand these injuries and the arguments herein, the State respectfully requests that this Court review the photographs taken by Maine Medical Center's trauma staff capturing [redacted] injuries on November 1st after she escaped Duane Hanson and was hospitalized for the start of her three-week recovery. (State's Exhibits 9-15; 5-13-25 Trial Tr. at 2-3, 202-03.)

Beginning at the end, on October 31, 2023, [redacted] arrived at Franklin Memorial Hospital Emergency Department where she presented with significant injuries, lacerations, and bruising. (5-13-25 Trial Tr. at 168, State's Ex. 1.) She was transferred by ambulance to Maine Medical Center's trauma unit where she spent approximately three weeks recovering from injuries caused by Duane Hanson. (*Id.* at State's Ex. 2; 5-15-25 Trial Tr. at 91.)

[redacted] had multiple lacerations to her left temple and left thigh, a fractured orbital bone, facial factures, significant and substantial bruising to her body including her face, neck, chest, and back. (State's Ex. 2, 9-15.) She had a laceration to her spleen and broken ribs. (State's Ex. 2.) The treating trauma

surgeon, and head of trauma at Maine Medical Center, testified that "she had pretty severe injuries. She had basically shattered multiple bones in her face. There was an injury to the eye socket[.] Her nose was broken. She also had a large pneumothorax, which is basically where your lung collapses. . . . [S]he also had a laceration to [her] spleen." (*Id.* at 89, 91-92.) She required intubation to breathe. (State's Ex. 2 at 79, 95.)

The laceration to the spleen was internally 2 or 3 centimeters in length that was "a serious injury that requires transfer to a trauma center," but they were "able to manage it nonoperatively with observation." (*Id.* at 93.) She had a "large bruise," about 12 to 15 centimeters in length above where the spleen. (*Id.* at 94.) [redacted] "lung was almost fully collapsed . . . about 75 to 80 percent collapsed," which, "if left untreated, that's the end result that can make these injuries fatal." *Id.* She required surgery to "wash out her chest" because of "a bad infection, like, that kind of covers the surface of the lung with pus[.]" (*Id.* at 95.) "And despite the fact that we had like gone to extreme lengths . . . she . . . develop[ed] a second infection" and a third tube was placed in her chest to "drain the rest of the fluid." (*Id.* at 96.)

On October 31st, Duane drove [redacted] to his grandmother's house (Nellie Hanson) at 34 Bemis Street, where his grandmother, brother (Derke Hanson), father (Richard Hanson), and mother were. (5-13-25 Trial Tr. at 197; 5-19-25

Trial Tr. at 124, 138, 157.) [redacted] told them Duane caused her injuries. *Id.* About an hour or so later, [redacted] sixteen year-old daughter and step-mother "showed up unannounced." (*Id.* at 199.) "Duane stood in the doorway, and he looked at [her] [a]nd he said, nobody will ever love [you] the way I love you . . . and he left." *Id.* That was the last time [redacted] saw Duane Hanson before trial. (*Id.* at 210.)

[redacted] teenage daughter testified that her "mom's face was all purple and bruised, and it was the size of a basketball, and her eyes were like bloodshot red. She could barely talk. Her voice was really hoarse, and she had a cut on her temple." (5-14-25 Trial Tr. at 55.) She described "bloodshot eyes" as "if you were to pop blood vessels in your eyes and how they get, like, really red." (*Id.* at 56.) She "didn't know if [her mom] was going to make it." (*Id.* at 57.)

Duane Hanson caused these injuries during a three-day span starting on his birthday—October 28th through October 31st—because he was mad at her because she "couldn't have sex with him." (*Id.* at 203-10.) He punched, strangled, and bit her. (*Id.* at 206.) He cut her with a broken glass bong on her upper left thigh, hit her in the face, strangled her with his hands until she was unconscious. (*Id.* at 206-07.) She "still can't scream to this day." *Id.* She was hit in the back and "thought he stabbed" her. (*Id.* at 207.) These assaults would start and stop and end with him being "remorseful" and crying; he would say "if anybody ever sees you like this, I will get charged for attempted murder."

(*Id.* at 208.) [redacted] described not being able to see out of her left eye, her whole face was purple and twice the size, she had a gash and scab down her forehead, bite marks on her arms, something internally hurt really bad, and her whole torse was black and blue. (5-13-25 Trial Tr. at 200-01, 203; State's Ex. 9-15.)

There was one day during this span where [redacted] couldn't see out of either eye because "they were just buttoned up so much" and "seeping blood." *Id.* She tried escaping once, running for the back door of the camper, but he caught her and "choked [her] out until [she] lost consciousness." (*Id.* at 209.) The cut to her left temple bled for "five hours" despite [redacted] trying to clean the blood with towels. (*Id.* at 209-10.) Duane was "mad because the camper smelled like blood, and it [made] him sick," so [redacted] "blindly wiped the floor." (*Id.*)

While this is how the relationship ended, it was no less violent in the beginning. Duane and [redacted] began a five-month sexual relationship around the first week of June of 2023, and she "always had black eyes." (*Id.* at 211, 229.) They lived together in her camper in Jay and Livermore Falls, and used crack cocaine and suboxone together. (*Id.* at 211-14.) A few weeks later, around mid-June, Duane Hanson started beating her. (*Id.* at 221.)

During one of these assaults, before June 28th, she had "gone unconscious and came to" after the "bleeding had stopped;" he "asked [her] if he took it too far, if he wanted people to be able to find [her] and my kids to

know what happened or if he just wanted me to be—just, like disappear." (*Id.* at 221-22.) She had "lacerations and bruising" to her face around her eyes and forehead, and he strangled her with his hands until she "passed out." (*Id.* at 224.) Duane broke [redacted] phones, one after another. (*Id.* at 225.)

Prior to [redacted] hospitalization, 911 was called once: by a 17-year-old upstairs neighbor who heard Duane Hanson assaulting [redacted] (State's Ex. 48; 5-14-25 Trial Tr. at 124-25, 131.) On August 21, 2023, two officers responded to Duane's parent's apartment at 34 Pleasant Street in Livermore Falls. (5-14-25 Trial Tr. at 73-74; 5-13-25 Trial Tr. at 228.) Body camera footage captured how [redacted] looked and sounded. (State's Ex. 50; 5-14-25 Trial Tr. at 78.) [redacted] eyes were surrounded by bruises, and she had a bruise and cut on her forehead. (*Id.* at 76, 78; 5-13-25 Trial Tr. at 230, State's Ex. 24, 25.)

[redacted] woke up in Duane's bedroom with him mad at her for falling asleep. (5-13-25 Trial Tr. at 225.) He strangled her "so bad" that when she "came to, [she] was having a seizure on . . . his bed." *Id.* She was "violently shaking . . . like [her] brain was shaking in [her] head," and "couldn't see anything." (*Id.* at 226.) He hit her on her face "always around her eyes." *Id.* During the strangulation, she could not breathe, talk, or scream. (*Id.* at 228.) She had a sore throat for "a long time" and "some notes that [she] can't even speak" or "sing" today. *Id.* [redacted] thought she was "going to die." (*Id.* at 228-29.) [redacted] "eyes

were black and blue from previous beatings that week and that month." (*Id.* at 229.) The injury to her "forehead" was from "Duane throwing a lighter at [her] . . . before he punched [her] later on and made the big one," her nose was broken and she had "cuts on [her] eyebrows from him punching" her. (5-13-25 Trial Tr. at 231.)

The assaults continued. [redacted] was strangled "at least ten" times in the relationship. (5-14-25 Trial Tr. at 240.) Duane caused the scar that runs the length of the center of her forehead where he punched her "really hard one time in the forehead . . . and it split." (State's Ex. 9; 5-13-25 Trial Tr. at 234, 235.) There was "so much blood." *Id.* This was after August 21st.

Then, the night of October 11, 2023, Duane Hanson threatened [redacted] with a knife, and "held [her] down and spread [her] legs and told [her] he was going to cut [her] vagina out and make sure [she] lived through it." *Id.* He hit [redacted] and pressed a machete up to her forehead while he held her down on the bed. (*Id.* at 236.) Duane strangled [redacted] with his hands so she could not breathe, and took a string from her bathing suit and tried to "get it around [her] neck." (*Id.* at 236-37.) [redacted] fought and thought "if he put that around [her] neck, [she] would die." (*Id.* at 237.) He got the string in her mouth causing rope burn on her lips. *Id.* She had bruising on her neck and inside her lips, her face was "black and blue and swollen," and the scar on her forehead. (*Id.* at 237-38.)

The next morning, [redacted] "had this ominous feeling that if [she] didn't leave right then, that [she] wouldn't make it out of that camper." (*Id.* at 238.) So, she walked to her brother's home where her sister-in-law was there. (*Id.* at 238, 241.) She told them Duane caused her injuries. (*Id.* at 242.)

Her brother remembered [redacted] showing up at his house "in very bad shape." (5-15-25 Trial Tr. at 26-27.) Both of her eyes were "black and blue," the "whites of her eyes were red," she had black and blue around her neck," and "a gash on her forehead." (*Id.* at 27.) He described it "like if someone was to strangle you, like the marks, like black and blue around your neck." (*Id.* at 28.) It looked "liked blood was in her eyes." *Id.* She "seemed scared, she seemed weak, she seemed hopeless." (*Id.* at 30.) Photographs taken from his security camera system captured [redacted] injuries. (*Id.* at 31-32; State's Ex. 29, 30.)

[redacted] sister-in-law testified similarly about her observations of [redacted] when she arrived on October 12th. (5-15-25 Trial Tr. at 42.) It took her a second to realize it was [redacted] because her "face was so swollen and bruised, and she had a hood on." (*Id.* at 42-43.) [redacted] had "bruising around her neck, her chin area, both of her eyes." (*Id.* at 43.) One eye had older bruising than the other, "a purple bruise on her chin," and "bruising around the back of her neck a couple of small cuts on the back of her neck." *Id.* [redacted] had a "very large cut going from between her eyes up into her hairline" and the cut had dried blood in it.

(*Id.* at 43, 47.) The whites of [redacted] eyes were "full [of] blood, like bright red." (*Id.* at 46.) [redacted] was "[n]ervous, scared, in pain" and "smelled terrible . . . like stale cigarettes, body odor, urine." (*Id.* at 48-49.)

Cell site location evidence was admitted associated with a phone number that [redacted] provided to law enforcement as belonging to Duane Hanson for dates of October 18 to 21, and 23rd, 25th, 28 to 30, 2023, with that phone number using cell towers in Livermore Falls, Jay, Fayette, East Hebron, Canton, Farmington, Chesterville, and Rome. (State's Ex. 59, 60; 5-15-25 Trial Tr. at 115, 160, 162, 164, 166-69.) Duane testified that this phone number was not his, but he was "pretty sure it was either" his mother's or brother's phone at that time, and it was possible that he used that phone, including to call a witness who testified for the defense at trial. (5-20-25 Trial Tr. at 17.)

On February 1, 2025, while Duane was incarcerated at the Androscoggin County Jail (ACJ), he mailed a letter to his friend of ten years, Michelle Keim. (State's Ex. 8, 55, 5-15-25 Trial Tr. at 58, 61, 71.) This letter, signed "Duane Hanson," informed Michelle of some of the charges pending against him and talks about [redacted] by name. (State's Ex. 8.) Duane wrote, "I'm begging you Michelle can you please contact and speak to my attorney and at least back my alibi from October 8th to the 10th or 11th," and "if you could be a friend just be

there for me and have my back Michelle I['ll] never forget it[.]" *Id.* He continued,

> I filed a wrongful death suit for my son and the civil attorney claims I'm liable to get between 1-4 million for pain and suffering and all the years I've spent locked up cause how bad losing my son fucked my life up so if I can beat this shit and be out when it goes through I'll look out for you 100%. Please Michelle you're the only person who ain't family I can depend on.

Id. Duane Hanson did not stop there.

On November 13, 2023, Duane had conditions of release set by the court that included no direct or indirect contact with [redacted] and were in place through trial. (State's Ex. 61; 5-19-25 Trial Tr. at 29.) On March 17, 2025, Duane called his ex-wife, Danielle Schmidt, from ACJ. (State's Ex. 62; 5-19-25 Trial Tr. at 30.) Duane asks Danielle, in part, to "check her temperature and tell her like . . . you're gonna look stupid to go into court. . . . [J]ust reach out to her and like . . . it's best not to go to trial." (State's Ex. 62.)

Danielle did Duane's bidding. (5-19-25 Trial Tr. at 35-36; State's Ex. 42.) Twenty-two days before trial, Danielle messaged [redacted] (State's Ex. 42; 5-19-25 Trial Tr. at 38.) Danielle wrote, "Aye, so I got a call a little bit ago, last month. . . . Asking me to relay a message not to go to court...you can fill in anything and everything else. . . but, yea, they said if you was smart you'd know what to and not to do." (State's Ex. 42.) Danielle confirmed when [redacted] asked if it was "D" and

continued, "I don't know when trial is, but he said to reiterate if you was smart you'd know not to go or else." *Id.* Getting these messages caused [redacted] to feel "[s]cared and sad," because she "believe[]d Duane . . almost killed [her]. And seeing these messages made [her] believe that . . . he wanted to. Like he wasn't finished." (5-14-25 Trial Tr. at 25.)

After the State's case rested, the defense called witnesses, including his father, brother, grandmother, and a friend. (5-19-25 Trial Tr. at 63-191.) Collectively, they testified that in the Summer and Fall of 2023, Duane Hanson was in Livermore Falls, Millinocket, Mattawamkeag, Lee, Augusta, Lewiston, Farmington or North Jay, and Bangor. (*Id.* at 65-69, 159-60, 165-66, 182.)

Following the close of evidence, the jury deliberated for approximately three hours before returning guilty verdicts. (5-22-25 Trial Tr at 105, 132 (11:49 a.m. to 2:34 p.m.).) Duane Hanson was unanimously convicted of thirteen counts by the jury: Counts 1, 3, and 4 through 7 in ANDCD-CR-2023-3199; and Counts 2 through 4 and 7 through 9 in ANDCD-CR-2025-1104. (*Id.* at 133-35; A. at 27-36, 152-60.) Before the start of trial, Duane pled open by way of *nolo contendre* to three counts of Class E Violation of Condition of Release. (5-13-25 Trial Tr. at 25-29; A. at 27-36.)

I. [redacted] Relationship with Duane Hanson before August 21, 2023.

The State sought to admit testimony from [redacted] about her relationship with Duane from the start of their relationship in May of 2023, until she was hospitalized on November 1, 2023. This included evidence that Duane started assaulting [redacted] around the middle of June. (5-13-25 Trial Tr. at 219; A. at 106.) Defense counsel objected because if the State introduced evidence from before August 21, "that's squarely 404(b) prior bad acts," that June fell outside of the on-or-about date, it did not meet 403, and the State had "what they need as far as identification" as [redacted] testified that Duane caused the assaults in October. (5-13-25 Trial Tr. at 217, 220; A. at 104, 107.) The State responded that the first assault in June was "not far outside of the August 21st date range," and that evidence was relevant to identity, relationship, including the domestic violence relationship and why she stayed. (*Id.* at 218-10; A. at 105-06.)

The court ruled that if the State can "lay that foundation and get that date in . . . it is within that . . . reasonable time limit, on or about gets us there." (*Id.*) (interjections omitted). [redacted] testified that the assaults started "about a week" before June 28th and "continued throughout the whole time, the whole summer." (*Id.* at 221-22; A. at 108.)

II. Impeachment or Alternative Suspect Evidence?

On April 30, 2025, the State filed an Omnibus Motion in *limine* seeking to exclude defense alternative suspect evidence. (A. at 12, 161-69.) The State

anticipated the defense would introduce evidence that [redacted] was assaulted by another person, "only potentially identified by gender and never name, over drugs [that] is inadmissible hearsay" and failed the alternative suspect analysis. (A. at 162.) On May 5, 2025, the defense responded to the State's motion with their own incorporated motion in *limine*; at that time, Hanson did "not have an in limine offer of proof of an alternative suspect." (A. at 12, 170-76.)

The defense anticipated that [redacted] told the Hanson family "that she was jumped by two wom[e]n and a man," and that it was relevant to "impeach any assertion made by [redacted] at trial that her injuries were caused by" Duane. (A. at 170-71.) Four days before trial, Duane's father told defense counsel that [redacted] "said she had stolen crack and meth and two girls beat her up. And then, a guy named Casper hit her in the face with a shovel." (A. at 133; 5-13-25 Trial Tr. at 133.)

On the first day of trial, a hearing was held on the introduction of this evidence. (A. at 37-73; 5-13-25 Trial Tr. at 130-66.) The defense argued that this was impeachment evidence and they should be permitted to inquire of [redacted] whether she told other people she was "jumped by two women and a guy, and did you tell other people that you were hit in the face by a guy named Casper with a shovel[.]"(A. at 45-46; 5-13-25 Trial Tr. at 138-39.) The defense agreed

that "[w]e're not dealing with an alternative suspect. There's no named person. There's no human being that we're pointing to . . . to say, this person did this to [redacted] not named Duane Hanson." (A. at 46-47; 5-13-25 Trial Tr. at 139-40.)

[redacted] testified on voir dire outside the presence of the jury. (A. at 55, 60; 5-13-25 Trial Tr. at 136, 148, 153.) She testified that she "and Duane decided . . . there was a story that [she was] jumped by two women and a man" but that they, "didn't tell them that's what happened to [her]. They knew what happened. But [they] told them if the police ever questioned them that [their] story would be that." (A. at 61-62; 5-13-25 Trial Tr. at 154-55.) [redacted] told his family that "Duane did it, and [she] just told them what happened, that Duane beat me." (A. at 62-63; 5-13-25 Trial Tr. at 155-56.) She "[n]ever" told "anyone that [she] was assaulted by a guy named Casper." (A. at 63; 5-13-25 Trial Tr. at 156.)

The court ruled that the defense was allowed to ask [redacted] those questions before the jury, but they were "stuck with the answer;" and that based on the offer of proof the evidence was insufficient, at that time, to meet the alternative suspect analysis. (A. at 72-73; 5-13-25 Trial Tr. at 165-66.)

The issue was re-addressed in the defense case and, again, he did "not offer[it] as alternative suspect evidence." (A. at 75-77; 5-19-25 Trial Tr. at 97-99.) The court determined this evidence was "not collateral unless this is an

alternative suspect situation" and "you don't have the person." (5-19-25 Trial Tr. at 107, 112; A. at 85, 90.)

Then, for a third time—and *after* the close of evidence—this issue was addressed on defense counsel's request at closing argument. (5-21-25 Trial Tr. at 61, 74-86; A. at 91-103.) The defense changed their position: now, not only was this evidence important for impeaching [redacted] but it *was* alternative suspect evidence. (5-21-25 Trial Tr. at 75-78; A. at 92-95.)

Based on the court's ruling and over the State's objection (5-21-25 Trial Tr. at 78-81, 83-86; A. at 95-98, 100-03), defense counsel argued just that to the jury: "Now you might be thinking well why would [redacted] say something that didn't happen? . . . If you're trying to mend those bridges, is it easier to say that in the depths of your addiction, you were led to do things that you're not proud of to get drugs. *Angering other people involved with drugs and similarly dangerous people was easier to say that Duane Hanson did all of it.*" (5-22-25 Trial Tr. at 91-92) (emphasis added).

III. Sentencing.

Following the jury's guilty verdicts and Hanson's pleas of *nolo contendre*, sentencing was held on July 8, 2025. (A. at 14-17, 22-36.) Duane Hanson was sentenced to an overall concurrent sentence of 28 years to the Department of Corrections. (A. at 15-17, 23-25; Judgment and Commitment Order at 27-30.)

The sentencing court (*Archer, J.*) "review[ed] both sides' memorandum thoroughly" and took a recess before rendering sentence. (Sentencing Tr. at 15, 47-48; A. at 181-204.) The court began its analysis with a factual background discussing the breadth and severity of [redacted] injuries. (Sentencing Tr. at 48-50; A. at 126-28.)

Then, the court selected the lead charge of Class A DV Aggravated Assault for causing serious permanent disfigurement or loss or substantial impairment of the function of a bodily organ, from the three-day "beating marathon," and that a concurrent sentence was appropriate. (Sentencing Tr. at 51-52; A. at 129, 158.) The court set the basic sentence at 25 to 30 years, considering only the defendant's conduct in committing this crime "on a scale of seriousness against all possible ways of committing" it.[1] (Sentencing Tr. at 51, 54; A. at 129, 132.) Factually, the court relied on this being a three-day "beating marathon that started in part because the defendant was angry that [redacted] would not have sex with him," and discussed [redacted] resulting injuries. (Sentencing Tr. at 52-54; A. at 130-32.) The court did not discuss any of the other assaults during any other step of the sentencing analysis. *Id.*

[1] *See* 17-A M.R.S. § 1602(1) (2025).

As required by 17-A M.R.S. § 1604(7)(C) (2025), this court gave "special weight . . . to the objective fact" that [redacted] was in fact stalked at the time of the crime. (*Id.* at 53; A. at 131.) It concluded that "the seriousness of the defendant's conduct" was "on the high end of the continuum of possible ways of committing the offense. (*Id.* at 53-54; A. at 131-32.) Noting that of the cases it did review, the facts "were not even close to being as horrific as what the defendant did" to [redacted] (*Id.* at 54, A. at 132.)

The court turned to the second step and set the maximum sentence of 28 years. (*Id.* at 56; A. at 134.) The court "examine[d] all relevant mitigating and aggravating factors relating to the character and criminal history of the defendant, the subjective effect of the crime on [redacted] and the protection of the public interest." (*Id.* at 54; A. at 132.) The court identified mitigating factors of Duane's mental health and substance use but found they were outweighed by the "significant aggravating factors." (*Id.* at 54-56; A. at 132-34.)

The court reached the maximum sentence taking "into account the relevant sentencing goals set forth in section 1501," including giving fair warning of a sentence that might be imposed, encouraging an individualized sentence, "recognizing domestic violence as a serious crime," and "particularly important here—the restraint of an individual when required in the interest of public safety." (*Id.* at 57; A. at 135.)

Finally, the court determined that no portion of the maximum was appropriate to suspend. (*Id.* at 57-58; A. at 135-36.) The court weighed Duane's rehabilitation against public protection, considered the aggravating and mitigating factors, the gravity and seriousness of the crime, his "prospects for successful rehabilitation while on probation," as well as "all of the relevant sentencing goals," emphasizing some of them. (*Id.* at 57-58; A. at 135-36.)

The court concluded that it was not appropriate to suspend any portion of the maximum sentence "because the defendant's history has shown he's not an appropriate candidate for probation" as there "is nothing credible that leads me to conclude that he has any prospects for successful rehabilitation on probation." (*Id.* at 58; A. at 136.)

The court imposed a sentence of 28 years to the Department of Corrections on Count 3 in ANDCD-CR-25-1104. (*Id.* at 61; A. at 139). The remaining counts were concurrent statutory maximum sentences. (*Id.* at 61-62; A. at 27-36, 139-40.) In ANDCD-CR-2023-3119, Counts 4 and 5 merged with Count 1, and in ANDCD-CR-25-1104, Count 9 merged with Counts 2 and 3. (A. at 27, 33.)

A motion to correct or reduce sentence, pursuant to M.R.U. Crim. P. 35(a), and a timely notice of appeal was filed by Hanson on July 29, 2025. (A. at 25, 178-80.) A hearing on that motion was held on August 26, 2025, which

the sentencing court denied. (A. at 109, 113-21; Motion to Correct Tr. at 13-15.) Hanson was granted leave to appeal the sentence by the Sentence Review Panel. (Order Granting Leave to Appeal Sentence, Oct. 17, 2025.)

STATEMENT OF THE ISSUES

I. Whether the trial court erred by excluding extrinsic impeachment evidence that [redacted] may have told Hanson family members that another person assaulted her, where that evidence is inadmissible hearsay and otherwise fails to meet the alternative suspect analysis.

II. Whether the trial court abused its discretion or clearly erred by admitting evidence that Duane Hanson assaulted [redacted] regularly from June of 2023 until the first date of the charged Domestic Violence Assault on August 21, 2023.

III. Whether the sentencing court erred and abused its discretion by imposing an overall twenty-eight-year straight sentence.

ARGUMENT

I. The Trial Court Did Not Err by Excluding Extrinsic Impeachment Evidence that [redacted] May Have Told Hanson Family Members that Another Person Assaulted Her, Where that Evidence is Inadmissible Hearsay and Otherwise Fails to Meet the Alternative Suspect Analysis.

Duane argues that the trial court erred by excluding the Hanson family's testimony that [redacted] may have told them that someone other than Duane Hanson assaulted her. (*Generally* Blue Br. at 23-38.) This evidence included (1) two women and a man assaulting [redacted] over drugs, and (2) "Casper" assaulting [redacted] with a shovel. (5-13-25 Trial Tr. at 132-33, 138-40, 154-56; 5-19-25 Trial Tr. at 97; 5-21-25 Trial Tr. at 75-78; A. at 39, 45-47, 61-63, 75, 92-95, 170-71.) This issue is preserved for appellate review, and applicable standards of review will be addressed herein. (*E.g.*, 5-13-25 Trial Tr. at 130-665-19-25 Trial Tr at 102; 5-21-25 Trial Tr. at 83; Blue Br. at 20; *supra* Red Br. at 17-20.)

A. Hanson Impeached [redacted]

This Court reviews evidentiary rulings on the admissibility of evidence for abuse of discretion and the underlying factual findings for clear error. *State v. Gervais*, 2025 ME 27, ¶ 16, 334 A.3d 645. An abuse of discretion occurs "if the ruling arises from a failure to apply principles of law applicable to the situation, resulting in prejudice." *State v. Thomas*, 2022 ME 27, ¶ 23, 274 A.3d 356. This Court reviews a "trial court's ruling limiting the scope of cross-examination for

abuse of discretion, and will overturn such a ruling only if it has clearly interfered with a defendant's right to a fair trial." *State v. Aldrich*, 2026 ME 8, ¶ 36, --- A.3d ---.

"A criminal defendant has the right to introduce evidence tending to impeach the credibility of a State's witness." *State v. Bennett*, 658 A.2d 1058, 1062 (Me. 1995). However, "[t]he extent and scope of impeachment testimony lies within the limits of judicial discretion" and "is considered abused if the ruling arises from a failure to apply principles of law applicable to a situation resulting in prejudice." *Id.* (quotation marks omitted).

To begin, [redacted] *was impeached*. Defense counsel cross-examined her, "Duane was hustling to get the drugs" and she "was with him . . . on his side." (5-14-25 Trial Tr. at 8, 29.) [redacted] said they "both came up with that story" and that if they did not tell that story to his family "[h]e would be arrested." (*Id.* at 38.) She did not "tell his family that [she was] assaulted by two women and a man." (*Id.* at 39.) She reiterated that "[t]hat story was in case we ever got pulled over to explain my face." *Id.* The defense chose not to cross-examine [redacted] before the jury, as it had on voir dire, as to whether she told "anyone that [she was] assaulted by a guy named Casper." (5-13-25 Trial Tr. at 156.)

The trial court did not abuse its discretion by permitting the defense to impeach [redacted] (*Id.* at 148-49; A. at 55-56); *Gervais*, 2025 ME at ¶ 16, 334 A.3d

645; *see also State v. Healey*, 2024 ME 4, ¶ 16, 307 A.3d 1082 ("When constitutional rights are at issue, such as the constitutionally protected right of cross-examination, the appropriate inquiry is whether, after review of the whole record, we are satisfied beyond a reasonable doubt that the error did not contribute to the verdict obtained." (quotation marks and alterations omitted)).

B. The Exclusion of the Hanson Family's Testimony About Who Might Have Assaulted [redacted] did not Violate Maine Rules of Evidence or Hanson's Federal Constitutional Rights.

The State now turns to whether the defense should have been permitted to introduce extrinsic evidence of what [redacted] told Duane's family for impeachment value and/or as alternative suspect evidence through their testimony. This evidence is noncollateral because whether [redacted] told others that she was assaulted by someone other than Duane Hanson—*i.e.*, the identity of her assailant—was the central issue at trial. Normally, this kind of evidence *would* be admissible at trial but for the alternative suspect analysis. The State addresses each in turn.

i. Collateral versus Noncollateral Impeachment Evidence

"It is well established . . . that a witness cannot be cross-examined on collateral matters for the purpose of subsequently contradicting the testimony and impeaching the witness. The test for determining whether evidence is collateral is whether the fact could have been proved for any purpose in the

absence of a contradiction." *State v. Anguiano*, 672 A.2d 595, 596 (Me. 1996); *see generally* Richard H. Field & Peter L. Murray, *Maine Evidence*, § 607.4 at 291 (6th ed. 2007) (discussing whether extrinsic evidence can be introduced, subject to Rule 403 limitations, using the "collateral" rule). "[E]xtrinsic evidence to disprove a fact testified to by a witness is admissible when it satisfies the Rule 403 balancing test and is not barred by any other rule of evidence." *U.S. v. Beauchamp*, 986 F.2d 1, 4 (1st Cir. 1993).

Whether or not Duane Hanson assaulted [redacted] is a non-collateral matter—it is a central, relevant fact in the case. As such, the State turns now to the intertwined application of the impeachment and alternative suspect evidence analyses.

ii. Alternative Suspect Evidence and Hanson's Federal[2] Constitutional Rights.

As to Hanson's argument that the exclusion of this evidence violated his "federal constitutional right to a fair trial," this issue is preserved. (Blue Br. at 23, 28-37); (A. at 171; 5-19-25 Trial Tr. at 102, 108; 5-21-25 Trial Tr. at 83).

A "court's decision to exclude alternative suspect evidence is reviewed for an abuse of discretion because it involves the weighing of probative value

[2] Hanson has not preserved a Maine Constitutional challenge and only raises a federal claim on appeal. (Blue Br. at 28-37); *see e.g.*, *State v. White*, 2022 ME 54, ¶ 31 n.13, 285 A.3d 262.

against considerations that militate against its admissibility." *State v. Mitchell*, 2010 ME 73, ¶ 23, 4 A.3d 478 (citing to M.R. Evid. 403). "To the extent that constitutional interpretation is involved, we review that legal determination de novo." *Mitchell*, 2010 ME at ¶ 23, 4 A.3d 478. The State begins with the alternative suspect analysis then turning to the federal constitutional analysis.

a. Alternative Suspect Analysis

This Court has "stated that alternative-suspect evidence is admissible if (1) the proffered evidence is otherwise admissible, and (2) the admissible evidence is of sufficient probative value to raise a reasonable doubt as to the defendant's culpability by establishing a reasonable connection between the alternative suspect and the crime." *State v. Daly*, 2021 ME 37, ¶ 19, 254 A.3d 426 (quotation marks omitted). This Court "reviews the court's exclusion of alternative-suspect evidence for clear error or an abuse of discretion, as [this Court] do[es] any Rule 401 or 403 determination." *Id.* at ¶ 29. "A defendant may establish a reasonable connection between the alternative suspect and the crime without *clearly linking* the alternative suspect to the crime[.]" *State v. Mitchell*, 2010 ME 73, ¶ 27, 4 A.3d 478 (emphasis in original).

"The first part of the test calls for a court to determine the preliminary admissibility of the evidence before assessing relevance and the balancing required by M.R. Evid. 401 to 403. Thus, the court need not reach the next step

if, for example, the proffered evidence is inadmissible hearsay[.]" *Id.* at ¶ 20 (internal quotation marks and citations omitted). "In the absence of *admissible* evidence that the defendant is prepared to offer, a defendant cannot be allowed to use his trial to conduct an investigation that he hopes will convert what amounts to speculation into a connection between the other person and the crime." *Id.* (quotation marks omitted) (emphasis in original).

"The second part of the test amounts to a 'specific application' of 'well-established rules of evidence that permit trial judges to exclude evidence if its probative value is outweighed by certain other facts such as unfair prejudice, confusion of the issues, or potential to mislead the jury.'" *Daly*, 2021 ME at ¶ 21, 254 A.3d 426 (quoting *Holmes v. South Carolina*, 547 U.S. 319, 326-27 (2006) (alterations omitted)).

This Court has "upheld the exclusion of evidence that is too speculative or conjectural or too disconnected from the facts of a defendant's prosecution." *State v. Dechaine*, 572 A.2d 130, 134 (Me. 1990) (quotation marks omitted). "[E]xamples of evidence that could establish a reasonable connection between an alternative suspect and the crime" include:

> (1) a confession by the alternative suspect, (2) physical evidence linking the suspect to the crime, (3) evidence of mistaken identity, (4) the alternative suspect's motive or opportunity to commit the crime, (5) evidence of the alternative suspect's commission of a

> similar crime with the same signature features, and (6) the alternative suspect's suspicion behavior following the crime.

Daly, 2021 ME at ¶ 30, 254 A.3d 426. None of these circumstances is present here.

Beginning at the first step—whether the evidence is otherwise admissible—testimony from the Hanson family that [redacted] purportedly told them that she was assaulted by "two women and a man" and/or "Casper" with a shovel is hearsay. Whether [redacted] told Hanson's family that she was assaulted by someone else is not admissible hearsay evidence because it matters precisely if true. "In a he-said/she-said case, *of course* it is of central importance that she said he didn't' do it. Such is a unified statement of opportunity, identity, causation, and intent—*of someone else*." (Blue Br. at 25) (emphasis in original).

Hanson argues the statements are not hearsay because they are someone [redacted] perceived earlier, M.R. Evid. 801(d)(1)(C).[3] (Blue Br. at 25.) On voir dire, [redacted] denied that "Casper" ever assaulted her, and the "two women and a man" line was something that she and Duane came up with to tell his family in case he was arrested for assaulting her. (A. at 39-40; 5-13-25 Trial Tr. at 132-33.)

[3] Hanson also argues (Blue Br. at 27), that this evidence could have been introduced as an excited utterance, pursuant to M.R. Evid. 803(1), however this was not raised by trial counsel and is waived. *E.g.*, *State v. True*, 438 A.2d 460, 468 (Me. 1981).

As such, the alternative suspect analysis ends at the first step. Were this Court to address the second step, the circumstances presented here are less robust than in *State v. Reese*, 2005 ME 87, ¶¶ 4, 13-14, 877 A.2d 1090. There, Reese tried to introduce three alternative suspects. *Id.* at ¶ 4. This Court concluded that the proffered evidence of one alternative suspect was offered by the non-declarant and for the truth of the matter asserted. *Id.* at ¶ 13. Thus, it was properly excluded hearsay evidence, and no evidence was presented to establish a reasonable connection between the alternative suspect. *Id.* at ¶ 14.

Here, it was not an abuse of discretion nor clear error for the court to exclude the alternative suspects because there was no reasonable connection between [redacted] and the unnamed "two women and a man" and/or "Casper." (5-13-25 Trial Tr. at 156.) This evidence "would have been only weakly probative of any other suspect's motive or opportunity to commit the crime" where a "fact finder could not, without resorting to speculation, view the evidence as creating a reasonable doubt regarding the identity of the person who" assaulted [redacted] *Daly*, 2021 ME at ¶ 39, 254 A.3d 426.

Additionally, Derek Hanson testified that [redacted] "showed up once, all beat up, and she got hit in the head with a shovel . . .fighting two girls." (5-19-25 Trial Tr. at 166.) On cross-examination, Derek ranted that she was "beat . . . with a

shovel in June" and "Why don't you ask Casper Colon what happened to her. . . . And the guy's got the shovel, hair and it had blood on it[.]" (*Id.* at 183-85.) These statements were not stricken from the record and were before the jury.

With this evidence before the jury—and the defense's closing argument suggesting who else could have assaulted [redacted] taken alongside the rest of the evidence presented in the State's case-in-chief, any error, if one occurred, was harmless. *See State v. Jaime*, 2015 ME 22, ¶ 38, 111 A.3d 1050 ("An error is harmless when it is highly probable that it did not affect the jury's verdict."); M.R.U. Crim. P. 52(a) ("Any error, defect, irregularity, or variance that does not affect substantial rights shall be disregarded."). The jury necessarily had to reject and disbelieve the Hanson's family's alibi testimony—including Duane's testimony itself—in order to convict Duane Hanson. As such, the jury *did* "decide whether [redacted] or the Hansons were more credible." (Blue Br. at 36.)

b. Federal Constitutional Claims.

Hanson asserts that the exclusion of this evidence violated, more generally, his right to a fair trial and, more specifically, to present a defense, call witnesses, and confront witnesses; thus, such error was harmful. (Blue Br. at 28, 31, and 37.)

To "the extent that constitutional interpretation is involved, [this Court] review[s] that legal determination de novo." *Mitchell*, 2010 ME at ¶ 23, 4 A.3d

478. "When constitutional rights are at issue, such as the constitutionally protected right of cross-examination, the appropriate inquiry is whether, after review of the whole record, [this Court is] satisfied beyond a reasonable doubt that the error did not contribute to the verdict obtained." *State v. Healey*, 2024 ME 4, ¶ 16, 307 A.3d 1082 (citing M.R.U. Crim. P. 52(a)) (quotation marks omitted).

"Whether rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment, the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense." *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006) (quotation marks omitted). There is no dispute that the "partiality of a witness is subject to exploration at trial, and is always relevant as discrediting the witness and affecting the weight of [their] testimony." *Davis v. Alaksa*, 415 U.S. 308, 316 (1974) (quotation marks omitted). "Of course, the right to confront and to cross-examine is not absolute and may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process." *Chambers v. Mississippi*, 410 U.S. 284, 295 (1973).

"Thus, the Constitution does not prevent a court from reasonably regulating the admission of alternative suspect evidence so long as it serves a legitimate purpose, such as the goal of focusing 'the trial on the central issues

by excluding evidence that has only a very weak logical connection to the central issues.'" *Mitchell*, 2010 ME at ¶ 33, 4 A.3d 478 (quoting *Holmes*, 547 U.S. at 330); *see also U.S. v. Scheffer*, 523 U.S. 303, 308 (1998) (stating that such regulations "do not abridge an accused's right to present a defense so long as they are not arbitrary or disproportionate to the purposes they are designed to serve").

The U.S. Supreme Court in *Holmes* gave several illustrations of "arbitrary rules, *i.e.*, rules that excluded important defense evidence but that did not serve any legitimate interests." 547 U.S. at 325-26. These examples are dissimilar from Hanson's case. There are four attributes to Hanson's case that distinguish it from *Holmes*, 547 U.S. at 331, *Chambers*, 410 U.S. at 294, 97, 302, and *Davis*, 415 U.S. at 309, 310-11, 312-13, 317-18: (1) [redacted] was in fact impeached on the potential alternative suspect evidence, in addition to her active warrant at the time of the assaults and her drug use (5-14-25 Trial Tr. at 27-29, 42); (2) the substance of the alternative suspect evidence was different in degree and substance than in the *Holmes* or *Chambers* cases, including by barely identifying an alternative suspect much less seeking to call that alternative suspect to testify in Duane's defense; (3) the defense chose not to impeach [redacted] with the "Casper" information before the jury (*see* 5-14-25 Trial Tr. at 27-48); and (4)

the defense was able to argue the alternative suspects at closing (5-21-25 Trial Tr. at 75, 83-84; 5-22-25 Trial Tr. at 91-92).

When reviewed de novo, application of Maine's alternative suspect jurisprudence here does not violate Hanson's federal Constitutional rights to present a defense or confront witnesses. The trial court balanced the paucity of alternative suspect evidence proffered by the defense with the Rules of Evidence. (5-21-25 Trial Tr. at 84-86.) "[A]fter review of the whole record" this Court can be satisfied beyond a reasonable doubt that the exclusion of the Hanson's family testimony about this evidence "did not contribute to the verdict obtained." *Healey*, 2024 ME at ¶ 16, 307 A.3d 1082. The wealth of evidence presented in the State's case at trial supports the jury's verdict. (*E.g.*, State's Ex. 1, 2, 8, 9-15, 42, 48, 59, 60; 5-14-25 Trial Tr. at 124-25, 131.)

Finally, if this Court concludes it was error, it was harmless, in part, because the defense was permitted to argue the alternative suspect and, before the jury, Derek Hanson stood up and started talking about "Casper" and/or "fighting two girls" assaulting [redacted] with a shovel. (5-19-25 Trial Tr. at 166, 184-85); (5-21-25 Trial Tr. at 75, 83-84; 5-22-25 Trial Tr. at 91-92); *State v. Judkins*, 2024 ME 45, ¶¶ 20-21, 319 A.3d 443 (enunciating the non-structural harmless error standard).

II. The Trial Court did not Abuse its Discretion or Clearly Err by Admitting Evidence that Duane Hanson Assaulted [redacted] Regularly from June of 2023 until the First Date of the Charged Domestic Violence Assault on August 21, 2023.

Hanson contends that the trial court erred by permitting the State to "obtain convictions based on uncharged conduct" identifying the uncharged conduct as the assaults from June of 2023 until the first assault date contained in the Superseding Indictment of August 21, 2023. (Blue Br. at 39; A. at 153.) Hanson legal justifications rest on the doctrines of duplicity and material variance. *Id.* Hanson contends the standard of review is de novo, however, trial counsel never made nor developed such an argument. (Blue Br. at 39.) The only specific legal basis that was articulated was M.R. Evid. 403 and 404(b). (A. at 106-07; 5-13-25 Tr. at 217, 219-20.)

Because the doctrines of duplicity and variance were undeveloped at trial, this issue should not be addressed by this Court.

> The fact that a party has preserved an objection does not mean that, on appeal, the party can raise any conceivable ground in support of that objection. In the context of a ruling admitting evidence, [the First Circuit] has explained that a lack of specificity bars the party aggrieved by the admission of the evidence from raising more particularized points for the first time on appeal. A contrary holding would enable a party to retrench after an adverse jury verdict and ask an appellate court to view the trial judge's evidentiary rulings through a new and different lens. This sort of

> second-guessing is antithetic to the core purpose of procedural default rules.

U.S. v. Pires, 138 F.4th 649, 665 (1st Cir. 2025) (quotation marks and alterations omitted).

Thus, because the articulated objections were pursuant to Rules of Evidence 403 and 404(b), this Court reviews "determinations on relevancy for clear error and . . . decisions on admissibility for an abuse of discretion." *State v. Healey*, 2024 ME 4, ¶ 13, 307 A.3d 1082.

At trial, the State sought to admit evidence of [redacted] relationship with Duane and that "[a]ll of this goes to identity." (5-13-25 Tr. at 115, 217-19; A. at 106-07.) "[T]here was never a time that she did not have a black eye," and that the on-or-about dates were "as close in time that we knew somewhat definitively when the assault occurs" because [redacted] would "testify, basically, [that the assaults occurred] from the second week of June until she was hospitalized, [that Duane] hit her at least once a week." (5-13-25 Tr. at 115-16.)

Maine Rule of Evidence 404(b) is framed in the context of prohibited uses of "[c]rimes, wrongs, or other acts," where "[e]vidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with that character." However, "Rule 404(b) does not render inadmissible evidence of other crimes,

wrongs, or acts if the evidence is offered to demonstrate motive, intent, identity, absence of mistake, or the relationship of the parties[.]" *State v. Barnes*, 2004 ME 38, ¶ 5, 845 A.2d 575. Maine Rule of Evidence 403 provides that a court "may exclude relevant evidence if its probative value is substantially outweighed by the danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."

Hanson's circumstance is much like the defendant in *State v. Reynolds*, 2018 ME 124, ¶ 28, 193 A.3d 168, who changed his argument on appeal and where this Court determined that the evidence was "admissible to show the relationship between him and the victim."

The same legal principles apply here to the Rule 403 and 404(b) analysis where the primary issue was the identity of [redacted] assailant: that the on-or-about language sufficiently encompassed the June and July assaults where [redacted] never went without a black eye, and the prior assaults were admissible, relevant evidence to establish the relationship, motive, opportunity, and identity of her assailant—Duane Hanson.

The trial court did not clearly err or abuse its discretion. Moreover, if the trial court erred by failing to address the 403 and 404(b) objections, any error is harmless. The State's alternative grounds for admissibility of this evidence

do not run afoul of Rule 403's balancing test. (A. 107, 5-13-25 Trial Tr. at 220); M.R.U. Crim. P. 52(a); *State v. Judkins*, 2024 ME 45, ¶¶ 19-21, 319 A.3d 443 ("The less stringent general standard applies to evidentiary errors, incorrect jury instructions, and improper prosecutorial comments that do not violate constitutional rights.").

Finally, were this Court to consider Hanson's argument and review for obvious error, there is none. M.R.U. Crim. P. 52(b); *State v. Ouellette*, 2024 ME 29, ¶ 12, 314 A.3d 253. (A. 107, 5-13-25 Trial Tr. at 220.)

"The primary vice of duplicity is that a jury may find a defendant guilty on the count without having reached a unanimous verdict on the commission of any particular offense, which in turn may prejudice a later double jeopardy defense." *U.S. v. Trainor*, 477 F.3d 24, 32 n.16 (1st Cir. 2007) (quotation marks and alteration omitted).

Discussing the application of a material variance, "[p]roof of the commission of the offense on any date within the statute of limitations, regardless of the date alleged in the indictment, is not a material variance from the indictment, unless it prejudices the defendant. . . . [A] time variance between the allegation in the indictment and the proof at trial is not fatal to a criminal conviction." *State v. Standring*, 2008 ME 188, ¶ 14, 960 A.2d 1210 (citations omitted).

The evidence presented at trial supports a finding that Hanson committed, at the very least, Domestic Violence Assault and Domestic Violence Stalking from the middle of June of 2023, through November 1, 2023. (5-13-25 Trial Tr. at 222, 224-25, 229, 238, 240; A. at 152-60.) This is a clear, identifiable date range that does not violate double jeopardy. The evidence presented at trial supported the jury finding that Hanson assaulted [redacted] nearly every month in their five-month relationship. (*E.g.*, 5-13-25 Trial Tr. at 222, 226, 229, 238, 240; A. at 152-60); *see U.S. v. Katana*, 93 F.4th 521, 536 (1st Cir. 2024). Further, the court's jury instructions on "specific unanimity" and "date of offense" remedy any double jeopardy concern, which Hanson appears to acknowledge. (Blue Br. at 43 n.8); (5-22-25 Tr. at 19-20).

III. The Sentencing Court Did Not Err or Abuse its Discretion by Imposing an Overall Twenty-Eight Year Straight Sentence.

Hanson's sentence appeal is preserved on the grounds that his basic sentence included consideration of "[C]lass B and [C]lass C conduct" and that the sentencing court improperly brought "step 2 aggravating factors into the step 1 analysis." (A. at 110-11, 178-79; Motion to Correct Tr. at 3-4.) On appeal, the sentencing court erred in reaching the basic sentence of 28 years by including conduct that was not part of the Class A lead crime (Blue Br. at 46), it committed constitutional error of "double counting" by separately punishing

and inflating the basic sentence (Blue Br. at 47), and abused its discretion by insufficiently considering mitigating factors and whether to suspend any portion of the maximum sentence (Blue Br. at 48-50).

As to the applicable standard of review, Hanson argues that this Court apply a de novo review to the entirety of the sentencing analysis. (Blue Br. at 44.) The State opposes this request. *See State v. Chase*, 2025 ME 90, ¶¶ 23-24, 345 A.3d 183; *State v. Reese*, 2010 ME 30, ¶ 23, 991 A.2d 806.

This Court reviews "the sentencing court's determination of the basic sentence de novo for misapplication of legal principles and its determination of the maximum sentence for abuse of discretion. [This Court] review[s] the sentencing court's analysis at each step to determine whether it disregarded the relevant sentencing factors or abused its sentencing power." *State v. Merchant*, 2026 ME 17, ¶ 11, --- A.3d --- (quotation marks and internal citation omitted). The sentencing court's factual findings are reviewed for clear error. *State v. Aldrich*, 2026 ME 8, ¶ 77, --- A.3d ---. A court is afforded "considerable discretion when evaluating whether it disregarded the statutory sentencing factors, abused its sentencing power, permitted a manifest and unwarranted inequality among sentences of comparable offends, or acted irrationally or unjustly in fashioning a sentence." *State v. Chase*, 2025 ME 90, ¶ 24, 345 A.3d 183 (quotation marks omitted)).

This Court reviews "questions of law de novo, including the legality of a sentence and the interpretation of a statute." *State v. Murray-Burns*, 2023 ME 21, ¶ 18, 290 A.3d 542 (quotation marks omitted)). A "double-counting claim" is reviewed de novo. *State v. Plummer*, 2020 ME 143, ¶ 11, 243 A.3d 1184. "Improper double counting occurs when the sentencing court considers the same factor at multiple steps of the *Hewey* analysis." *Chase*, 2025 ME at ¶ 25, 345 A.3d 183. The same fact, however, can generate multiple factors. *E.g.*, *Plummer*, 2020 ME 143, ¶ 14, 243 A.3d 1184.

When reviewed de novo, the sentencing court did not err by setting the basic sentence at 28 years nor did it commit "double counting." The court chose the lead sentence of the Class A Domestic Violence Aggravated Assault[4] from the "three-day beating marathon." (Sentencing Tr. at 51; A. at 129.) The court talked about [redacted] injuries including "scars, her swollen left eye, her inability to feel her upper left forehead, and poor short-term memory. All these injuries were caused by the defendant's vicious multi-day beating." (*Id.* at 52-53; A. at 130-31.)

Although the court referenced that Duane strangled [redacted] until she was unconscious during this event, which is factually correct (*Id.* at 52; A. at 130),

[4] 17-A M.R.S. §§ 208(1)(A-1), 208-D(1)(B) (2025).

the long-term effects of these injuries were the result of him punching, strangling her unconscious, and cutting her. *Id.* (*See e.g.*, 5-14-25 Trial Tr. at 174–75 (testimony of strangulation expert on the physiological, psychological, and neurological signs or symptoms of strangulation); *see also State v. Athayde*, 2022 ME 41, ¶ 53, 277 A.3d 387 ("Here, the domestic violence that occurred . . . was properly considered as part of the objective nature and seriousness of the crime itself because the cause of death . . . was the acute and chronic physical abuse[.]" (quotation marks and emphasis omitted)).

The court did not double count or "inflate" the basic sentence. (Blue Br. 46-47.) First, the court was statutorily required to apply special weight to the objective fact that [redacted] was stalked during this crime. (*Id.* at 53; A. at 131); 17-A M.R.S. § 1604(7)(C) (2025). Second, the court did not address the other assaults for which Duane Hanson was convicted as part of setting the basic sentence; the court specifically "considered only the defendant's conduct in actually committing the crime at hand." (Sentencing Tr. at 51-54; A. at 129-32.)

Turning to the other arguments raised, the court did not abuse its discretion by determining that aggravating factors outweighed mitigating factors. "The selection for appropriate emphasis among the disparate purposes of sentencing rests in the discretion of the court and we accordingly afford the court significant leeway in what factors it may consider and the weight any

given factor is due when determining a sentence." *Aldrich*, 2026 ME at ¶ 81, --- A.3d --- (quotation marks, alterations, and internal citations omitted). A court "is not required to discuss every argument or factor that the defendant raises, as long as it does not disregard significant and relevant sentencing factors." *State v. Reese*, 2010 ME 30, ¶ 34, 991 A.2d 806.

The court identified two mitigating factors[5]—his mental health and substance use issues. (Sentencing Tr. at 54-55; A at. 132-33); *see also Aldrich*, 2026 ME at ¶ 82, --- A.3d --- ("Here, Aldrich cited as mitigating factors his history of drug use and his attempts to support his family and start a business. The court stated that it reviewed Aldrich's sentencing memo and had considered his arguments. It acknlowedged [the mitigating factors]. No more was required." (emphasis added)).

Standing in stark contrast to these mitigating factors are the identified aggravating factors: (1) the impact on the victim and who "vicariously experienced the trauma;" (2) Duane's "complete and utter lack of remorse, as

[5] Hanson contends the sentencing court abused its discretion by failing to apply a mitigating factor: his "17-month-old son who was brutally beaten to death in 2008." (Blue Br. at 48 (quotation marks and alterations omitted)). "In determining the appropriate degree of mitigation or aggravation of an offender's basic sentence, the court may consider any evidence that is factually reliable and relevant." *State v. Waterman*, 2010 ME 45, ¶ 48, 995 A.2d 243 (quotation marks and alteration omitted). The death of his son is a "terrible and absolutely awful and devastating" event, however, using his this as a mitigating factor when Duane Hanson offered to pay a witness to testify as a manufactured alibi witness out of the presumed civil judgment from his child's death, if considered at all, is an aggravating factor. (Sentencing Tr. at 34; State's Ex. 8.)

reflected in his own incredible testimony[,] . . . necessarily rejected by the jury in light of its conclusions, [and] was at times improbable, conflicting, and lacking in credibility;" (3) Duane tampered with [redacted] and encouraged "false testimony by others"; (4) how Duane interacted with witnesses during trial, including exchanging a head nod with his brother before he testified (5-19-25 Trial Tr. at 173; 5-20-25 Trial Tr. at 35); (5) Duane's age; (6) that he was on bail at the time; (7) his criminal history; (8) the "multiplicity of crimes committed over a five-month period;" and, finally, (9) "the serious and significant need to protect the public from the defendant because of the potential to re-offen[d]." (Sentencing Tr. at 55-56; A. at 133-36.)

Moreover, the sentencing court was required to "assign special wight to any subjective victim impact caused by the stalking in determining the maximum term of incarceration in the 2nd step in the sentencing process." 17-A M.R.S. § 1604(7)(C). The court addressed the significant aggravating factor of the impact on [redacted] (Sentencing Tr. at 55; A. at 133).[6] The court identified the relevant sentencing goals it considered. (*Id.* at 57; A. at 35.) This was not an abuse of discretion.

[6] *See also State v. Waterman*, 2010 ME 45, ¶ 46, 995 A.2d 243 (exposing children to the risk of physical and psychological harm by witnessing horrific violence such as domestic violence homicide is an aggravating factor).

Finally, the court did not abuse its discretion by not suspending any portion of the maximum sentence. (Blue Br. at 48-50.) The court identified that "this step requires that [it] weigh the defendant's prospects for rehabilitation versus the interest of public protection," and emphasized the "goals of providing notice of the nature of sentences that may be imposed for this type of conviction based upon this type of horrendous conduct" and recognized the effect of domestic violence crimes. (Sentencing Tr. at 57; A. at 133; *see also Id.* at 48-50 (outlining the evidence introduced at trial).)

CONCLUSION

For the foregoing reasons, the State of Maine respectfully requests that this Court affirm Duane Hanson's judgments of conviction and sentence on appeal.

Dated: March 16, 2026

/s/ Katherine M. Hudson-MacRae
Katherine M. Hudson-MacRae
Assistant District Attorney
Androscoggin County District Attorney's Office
Maine Bar No. 005971
184 Main Street, Suite 400
Lewiston, Maine 04240
(207)-753-2521
katherine.macrae@maineprosecutors.com

CERTIFICATE OF SERVICE & WORD LIMIT

I, Katherine M. Hudson-MacRae, certify that I will simultaneously with the electronic filing of this Brief, electronically served a copy of the "Brief of Appellee" to the Appellant's attorney of record, Rory A. McNamara, Esq., at rory@drakelawllc.com. Following acceptance of the electronic filing of this Brief, I further certify that I will mail two copies, postage prepaid, of the "Brief of the Appellee" to the Appellant's attorney of record, Rory A. McNamara, Esq., P.O. Box 143, York, Maine, 03909.

I, Katherine M. Hudson-MacRae, certify that this Brief does not exceed the greater of 40 pages or 10,000 words with the cover page, table of contents, table of authorities, and the certificate of service not counted in calculating the word limit. M.R. App. 7A(f)(1), (3). The word count is 9,973.

Dated: March 16, 2026

/s/ Katherine M. Hudson-MacRae
Katherine M. Hudson-MacRae
Assistant District Attorney
Androscoggin County District Attorney's Office
Maine Bar No. 005971
184 Main Street
Suite 400
Lewiston, Maine 04240
(207)-753-2521
katherine.macrae@maineprosecutors.com