

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

LAW DOCKET NO: YOR-25-446

**STATE OF MAINE
Appellee**

v.

**LORENZE LABONTE
Appellant**

*ON APPEAL FROM THE SUPERIOR COURT FOR
YORK COUNTY*

APPELLANT'S BRIEF

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FACTS AND PROCEDURAL HISTORY

At approximately 2:11 p.m. on November 24, 2023, Biddeford dispatch received a call for an emergency at 13 State Street, Apartment 101 in Biddeford. *Transcript, June 25, 2023, at p. 68:7-25.* Several members of the Biddeford Police Department, including Officer Andrew Shorthill, immediately responded to the scene. *Id., at pp. 74:10-75:7.* When Officer Shorthill approached and entered the apartment, he heard a female voice inside of the apartment screaming for help. *Id., at pp. 76:24-77:4.* He later identified that female as Ariana Tito. *Id., at p. 77:18-21.* Officer Shorthill located Ms. Tito in a back bedroom where he also found an unresponsive male laying on the floor, face up, and Ms. Tito was administering CPR. *Id., at p. 78:3-17.* The male was later identified as Ahmed Sharif. *Id., at p. 79:2-4.* Other than some blood on Mr. Sharif's pants, Officer Shorthill observed no injuries at that time. *Id., at p. 79:5-8.* At some point, Ms. Tito stated that Mr. Sharif had been shot. *Id., at p. 79:15-17.*

At this point, Officer Shorthill, dragged Sharif out of the apartment onto the street so that responding paramedics would have ample space to provide life saving measures. *Id., at p. 79:17-23.* After getting Sharif outside, Officer Shorthill did observe what he believed to be a gunshot wound under Sharif's right arm. *Id., at pp. 80:25-81:5.* When paramedics arrived, they loaded Sharif onto a stretcher, put him in the ambulance and began life saving measures for approximately 20-25

minutes before declaring him deceased. *Id.*, at p. 81:10-25. During the course of the paramedics' treatment of Sharif, Officer Shorthill observed an additional gunshot injury on the left side of Sharif's upper torso under his arm and a bullet hole through his elbow. *Id.*, at p. 82:9-14.

At some point, Officer Shorthill had the ambulance doors locked because Ms. Tito was hysterical and was either attempting to get into the ambulance or making statements about doing so and Shorthill did not want her disturbing the crime scene. *Id.*, at pp. 83:19-84:10. Shorthill remained on scene at the 13 State Street address for the majority of the day and evening. *Id.*, at p. 85:5-8. At no point during his involvement did Shorthill ever search Ms. Tito for a firearm or weapon. *Id.*, at p. 90:20-22.

On November 24th, Sergeant Brian Mills of the Biddeford Police Department was the supervising sergeant for the day shift patrol officers. *Id.*, at p. 95:6-14. Sergeant Mills heard the first responding officers indicate that they were going to need assistance, so he responded to the 13 State Street address. *Id.*, at pp. 97:21-98:3. Sergeant Mills entered the residence and conducted a protective sweep to make sure there were no other victims or suspects. *Id.*, at pp. 99:24-100:2. Mills assisted Officer Shorthill with dragging Sharif out of the apartment and onto the sidewalk. *Id.*, at p. 101:14-22.

Paramedic Daniel Malloy was one of the EMT's that responded to 13 State Street on November 24th. *Id.*, at pp. 123:20-124:10. Upon observing Sharif, Malloy noted a gunshot wound to his left elbow and then through his torso. *Id.*, at p. 126:12-16. He and his partner immediately placed Sharif on a stretcher and put him in the ambulance. *Id.*, at p. 126:17-22. At that time, Sharif was not conscious and was not breathing. *Id.*, at p. 128:8. Malloy and his team performed life saving measures, but were unsuccessful and declared Sharif dead after approximately 25 minutes. *Id.*, at pp. 130:13-136:23.

Detective James Plamendon of the Biddeford Police Department was one of the detectives on duty on November 24th and he responded to the 13 State Street address. *Id.*, at pp. 179:25-180:20. Upon arrival at State Street, Detective Plamendon spoke with Ms. Tito and described her as shaken, frantic, and unorganized. *Id.*, at p. 182:3-23. Detective Plamendon spoke with Ms. Tito for approximately 20 minutes before moving her to the back seat of a police car to further discuss what she had witnessed. *Id.*, at p. 185:9-21.

Detective Plamendon was able to locate surveillance video cameras from multiple nearby addresses in the neighborhood. *Id.*, at p. 186:7-19. The video footage revealed that at approximately 1:58 p.m. on November 24th, a black Chevy Equinox bearing registration plate 319ZP pulled into the driveway of apartment 101 at 13 State Street. *Id.*, p. 193:5-9. Shortly after arriving, an individual wearing

all black exited the vehicle and approached the side door to apartment 101, but was unable to gain entry and went to the rear of the residence and out of view. *Id.*, at p. 193:10-18. Another surveillance video showed the individual appearing to enter the rear window of apartment 101. *Id.*, at p. 209:10-16.

After several minutes, an individual wearing all black exited the residence through the side door, reentered the vehicle and the vehicle then left the residence. *Id.*, at p. 193:21-25. Prior to the individual leaving the residence and the vehicle leaving the driveway, a young girl exited the side door of apartment 101. *Id.*, at p. 202:13-17. That individual was later identified as Labonte and Tito's younger sister A.T. *Id.*, at p. 202:24-203:3. Law enforcement was unable to identify Labonte as the individual that entered and exited the home. *Id.*, at pp. 222:25-223:4.

Plamendon was able to run the plate on the Equinox and determine that the owner was Zachary Jewett. *Id.*, at p. 21:3-7. Officers were able to locate Mr. Jewett the next morning and Plamendon and Detective Justin Huntly from the Maine State Police attempted to interview Jewett, but he declined to speak with them. *Id.*, at pp. 213:17-214:13. Donald Mitchell was also in the vehicle with Jewett when he was located and the detectives interviewed Mitchell on November 25th. *Id.*, at p. 213:14-25.

Dr. Liam Funte of the State Medical Examiner's Office performed an autopsy on Sharif. *Id.*, at p. 152:3-5. Dr. Funte observed that Sharif's clothing was bloody and had defects/holes with what lined up to be gunshot wounds to his body. *Id.*, at pp. 153:21-154:2. Dr. Funte observed a gunshot wound that went through the left arm, left upper extremity, then returned to the torso and exited on the opposite side of the body. *Id.*, at pp. 158:23-159:7. Dr. Funte determined that the bullet went through the arm, exited on the inside of the arm, entered the chest wall, then traveled through the lower lobe of the left lung, through the aorta, through the lower lobe of the right lung and exited the chest on the other side of the body. *Id.*, at pp. 162:23-163:3. He did not locate a bullet or any type of projectile in the body. *Id.*, at p. 163:4-7. Toxicology revealed the presence of cocaine, Xylazine, marijuana and fentanyl. *Id.*, p. 168:17-20. Dr. Funte determined cause of death as a gunshot wound of the arm into the torso. *Id.*, at pp. 168:21-169:4.

Dr. Funte also testified that had the bullet not gone through Sharif's arm and entered his torso, piercing his lungs and heart, he likely would not have died as the result of the gunshot wound to the arm. *Id.*, at pp. 172:17-173:3.

Mr. Mitchell testified at trial that he had known Labonte since childhood. *Transcript, June 26, 2025, at pp. 23:20-25:19.* Mitchell stated that Labonte previously resided at 13 State Street and that he would visit him at that location. *Id.*, at p. 27:5-12. He further testified that Labonte's bedroom was in the back of

the residence. *Id.*, at p. 28:16-22. Mitchell knew Labonte to go by the nickname Lo-Gee and/or Lo. *Id.*, at p. 29:15-21.

On November 24, 2023, Mitchell was living with Mr. Jewett in Old Orchard. *Id.*, at pp. 30:8-17; 32:3-8. At that time, he and Jewett were sharing a phone and Jewett had Labonte's name stored in his phone as Lo Tatty. *Id.*, at p. 33:6-16. On the 24th, Jewett and Mitchell got a call from Labonte requesting a ride to his mothers in Biddeford from his residence in Saco and that he would hook them up with a little bit of crack for the ride. *Id.*, at pp. 35:19-38:1. Mitchell claimed that when Labonte exited his residence in Saco he was wearing a shiesty (a tight fitting mask that covers the face and head) and hoodie and he got into the back seat with Mitchell. *Id.*, at p. 38:17-22. Mitchell's memory of the exact details were not clear because he was "dope sick" from not having heroin. *Id.*, at pp. 42:14-43:15. When they arrived at 13 State Street, Labonte got out of the car, tried the side door and then went towards the back of the residence. *Id.*, at pp. 43:19-44:1. Jewett and Mitchell stayed in the car with the radio and car turned off. *Id.*, at p. 46:1-6.

After a few minutes, Labonte exited the residence, got in the rear of the vehicle with Mitchell and offered Jewett an ounce of crack cocaine if he would bring him to New Bedford. *Id.*, at pp. 47:14-49:3. Mitchell claimed that Labonte was wearing rubber gloves, but could not remember the color and that he was

throwing things out the window as Jewett was driving¹. *Id.*, at p. 49:8-18.

Labonte did not say anything to them at that time about what happened. *Id.*, at pp.

49:19-50:1. During the ride, Mitchell claimed that Labonte made multiple calls

and that during one he heard Labonte say “I hit him with a four-five.” *Id.*, at p.

52:13-20. According to Mitchell, Labonte also called his girlfriend and that he

heard him reference his best friend’s sister being given Percs and overdosing and

dying, as the reason for “hitting him with a four-five.” *Id.*, at p. 53:7-14. During

the ride, Labonte never mentioned a gun to Jewett and Mitchell and neither of them saw it during the ride. *Id.*, at pp. 53:25-54:9; 92:24-93:5.

Mitchell maintained that Labonte instructed he and Jewett to tell police that they had picked up a Somalian, who had a shiesty on and asked for a ride to State Street. *Id.*, at pp. 54:19-55:3. When the trio arrived in New Bedford, they pulled into a parking lot where Mitchell said a silver Mercedes with a couple of guys wearing shiesties was waiting for them. *Id.*, at pp. 55:21-56:2. Mitchell testified that one of the males in the Mercedes gave Jewett and Mitchell some crack and they left. *Id.*, at p. 57:12-22. Once back in Maine, Jewett and Mitchell went to Labonte’s residence to retrieve the drugs that Labonte had promised them. *Id.*, at pp. 61:2-63:10.

¹ During his second interview with detectives where he claims to have been truthful, he was asked directly if he saw Labonte throw anything out of the window and he had told them no. *Transcript, June 26, 2025, at p. 100:1-14.*

After he and Jewett were stopped the next day and he initially spoke to police, he told them they had picked up a Somalian and did not tell them about Labonte. *Id.*, at pp. 64:22-65:9. Mitchell testified at trial that his original account to detectives was not truthful, because he feared Labonte might have him hurt if he told the truth. *Id.*, at pp. 76:9-77:10.

Mr. Mitchell did not witness Labonte shoot Sharif and did not hear a gunshot while he and Jewett sat in the car. *Id.*, at p. 84:17-22. Labonte never told Mitchell that he shot Sharif and Mitchell did not hear Labonte say that to anyone on the phone. *Id.*, at pp. 85:11-86:10; 93:7-15. At no point prior to dropping Labonte off in New Bedford did Mitchell see Labonte with a gun. *Id.*, at pp. 92:24-93:5.

Mr. Jewett also provided testimony at trial. *Id.*, at p. 120. He testified that on November 24, 2023, he got a phone call from Labonte and that Mitchell answered the phone. *Id.*, p. at p. 124:15-24. Labonte asked for a ride to his mom's because there was some type of emergency. *Id.*, at p. 127:6-10. He and Mitchell went to Labonte's residence and picked him up. *Id.*, at pp. 130:9-131:25. Contrary to Mitchell, Jewett testified that when Labonte exited his residence, he did not look suspicious and was just wearing black and got into his back seat². *Id.*, at p. 136:19-25. Jewett testified that Labonte was not wearing a mask and nothing

² Jewett and Mitchell's testimony conflicted in many significant ways.

seemed suspicious at all during the drive. *Id.*, at p. 137:16-25. Jewett said he parked in the driveway to the left of apartment 101, Labonte got out and went to the side door, but could not get in so he went around to the back. *Id.*, at pp. 141:1-142:9. Jewett claimed that when he got out of the car, Labonte was wearing gloves and a mask. *Id.*, at p. 142:15-17. Again, contrary to Mitchell, Jewett testified that he had the music on while waiting for Labonte, but he also did not hear a gun shot. *Id.*, at p. 143:2-5.

After a few minutes, Labonte exited the side door of the residence, got into the rear of Jewett's vehicle and offered him an ounce of cocaine for a ride to Massachusetts. *Id.*, at pp. 114:6-145:23. Jewett did not see Labonte with a gun and said he was not acting out of the ordinary when he exited the residence. *Id.*, at pp. 146:13-21. Labonte was also not hurrying or telling Jewett to get out of there quickly. *Id.*, at pp. 178:5-179:2. Jewett recalled Labonte receiving a few phone calls and talking about selling something and also talking about selling a glick, which Jewett believed to reference a gun. *Id.*, at pp. 160:5-161:1.

When they got to New Bedford, contrary to Mitchell, Jewett testified that some of Labonte's friends were waiting in a black BMW. *Id.*, at pp. 161:12-162:1. Jewett testified that while in New Bedford, Labonte gave them some money to get back and they left, but also contrary to Mitchell's testimony, Jewett testified that no one gave them drugs. *Id.*, at pp. 162:3-16; 182:8-9. After arriving back in

Maine Jewett's car broke down, so he arranged a ride to Labonte's residence to get the cocaine Labonte had promised him. *Id.*, at pp. 163:6-164:23.

Just like Mr. Mitchell, Jewett did not witness Labonte shoot Sharif and Mr. Labonte never told him he had shot anybody. *Id.*, at pp. 170:24-171:2. He also never saw Mr. Labonte with a gun, including when Labonte got out of the car in New Bedford. *Id.*, at p. 171:10-17. Like Mr. Mitchell, Jewett never heard a gun shot while at 13 State Street. *Id.*, at p. 178:9-11.

The State called Mr. Labonte's 12 year old sister, A.T. *Id.*, at p. 185:3-24. A.T. was 10 years old in November of 2025³. *Id.*, at p. 18-24. She believes she woke up around 10:30 a.m. on November 24th and her mother soon left for work, leaving her, Ariana, and the man she knew as "Dougie" at the State Street residence⁴. *Id.*, at pp. 195:22-196:2. At some point A.T. heard a knock at the door and told Ariana someone was at the door, but when she looked out the window, no one was there. *Id.*, at p. 197:2-19. Again, through direct leading questions, the State elicited testimony from A.T. that Labonte asked her to go to her cousin's house up the street, so that he could argue with Ariana. *Id.*, at pp. 211:23-212:19.

³ During her testimony, A.T. was repeatedly led by the prosecutor to say that she had said things she had not said, to which Appellant objected. *Id.*, at pp. 201:2-202-20; 206:8-210:1.

⁴ "Dougie" was purportedly a nickname for Mr. Sharif.

A.T. in fact left the residence and when she left Labonte was in the kitchen getting some juice, and Ariana and Dougie were in Ariana's bedroom. *Id.*, at p. 214:1-5.

Again through leading testimony, the State elicited that Labonte had given A.T. money on the 24th before she left the house and that it was because he had promised to give her money on Thanksgiving, but did not, so he gave it to her that day when she asked him if he had her money. *Id.*, at pp. 217:24-218:5. On cross-examination, A.T. testified that her brother did not seem angry or mad about anything and he was not yelling at anyone. *Id.*, at p. 223:4-10. A.T. never heard anyone arguing, fighting or raising their voices. *Id.*, at p. 224:5-11. She did not see Labonte with a gun or even a bulge in his pockets. *Id.*, at pp. 224:20-225:6. Labonte also never told A.T. that he was upset with Dougie or that he was going to argue with Dougie. *Id.*, at pp. 229:24-230:4.

On November 24, 2023, Detective Jason Wing of the Maine State Police was a member of the Evidence Response Team called in to search the 13 State Street, Biddeford crime scene. *Transcript, June 27, 2025, at pp. 11:11-13:14.* At the scene, Detective Wing and members of the team located a defect in the wall in the rear bedroom that they suspected to be from a projectile being fired out of a firearm. *Id.*, at p. 40:3-15. Also in Ariana's bedroom, they located a bullet casing that had been fired from a .45 automatic weapon. *Id.*, at pp. 43:21-44:19;45:21-46:4. On the outside of the apartment, the Detectives observed a defect where a

projectile exited the dwelling. *Id.*, at pp. 52:5-53:13. Despite extensive efforts, detectives never located a bullet inside or outside of the residence. *Id.*, at p. 54:3-9. They also never recovered any firearm or ammunition from 13 State Street. *Id.*, at p. 57:4-7.

Detectives also conducted a search of Mr. Labonte's residence on Temple Street in Saco. *Id.*, at p. 82:9-13. Detectives did not recover a .45 caliber firearm or .45 caliber bullets at Mr. Labonte's residence. *Id.*, at pp. 91:24-92:5.

The State called Detective Desiree Hurd to testify regarding a notebook found at the Temple Street residence, to which Labonte objected to the introduction. *Id.*, at pp. 116:1-120:1. Over objection, Hurd was allowed to testify that she found a black notebook at Temple Street, although she readily admitted that she had no idea when the writing was made in the notebook, who actually wrote it and that she located that notebook three days after the homicide. *Id.*, at pp. 134:24-136:9. There was also evidence that other people may have been residing or staying at the Temple Street address, including a Donnie Nunez, whose phone was located at the residence. *Id.*, at pp. 134:25-136:15.

The State called Dawn Ego from the Maine State Computer Crimes Laboratory to testify regarding data and images obtained from cell phones associated with the investigation. *Transcript, July 1, 2025*, at p. 25:9-19. Labonte offered multiple objections to her testimony, including that the texts were not

properly authenticated, and these objections were argued at length and decided by the Court prior to her testimony. *Id.*, at pp. 3:6-23:25; *see also Transcript, June 30, 2025, at pp. 202:24-217:2*. During her search of an Ipro 14, Ms. Ego located what appeared to be a conversation that was of relevance to the investigation and also found the phone associated with an icloud email of arilab6@icloud. *Id.*, at p. 38:9-25.

Ms. Ego testified that she located snap chat message from the phone to a username of Kay_grantx0 and contact name on the phone as kayla sis. *Id.*, at p. 45:5-25. Ms. Ego further testified that the chat message in question was listed at 12:56 p.m. on November 24, 2023, and began “Yo, it’s Lo.” *Id.*, at pp. 43:11-44:20. The next message was from “kayla sis” to “ari” which contained an object indicating some type of media had been sent at that time. *Id.*, at pp. 45:10-46:8. Ms. Ego proceeded to testify to the contents of each of the messages between “kayla sis” and “ari” over the course of several minutes. *Id.*, at pp. 46:17-53:3. These texts referenced drugs, referred to “ari” as a “ho,” referenced some person that apparently came into “ari’s” window at 4 a.m. and a variety of other things the State claimed came from Labonte to his sister, indicating his displeasure with her having Mr. Sharif in her bedroom. *Id.* Labonte argued that the State never properly authenticated who was sending and receiving the messages that were not even from a phone or a snap chat account having anything to do with Labonte, and

further argued that admission of these chats without properly identifying who was sending them violated Rules of Evidence 402 and 403. *Id.*, at pp. 3:6-23:25.

The State also introduced the testimony of Detective Martin Royle of the Maine State Police to testify about his analysis of cell phone records and phone locations at various times through the time period of the homicide. *Transcript, June 30, 2025, at p. 139:22.* Detective Royle conducted an analysis of phone number 207-298-0021, which he associated with Labonte, and 207-468-3067, associated with Jewett. *Id.*, at p. 156:4-13. Detective Royle testified regarding phone contact between the two phones on November 24, 2023, as well as location data for the two phones. *Id.*, at pp. 159:8-184:4. Detective Royle testified that during the morning and afternoon of November 24th, Labonte's phone pinged off cell towers in the vicinity of his residence in Saco, 13 State Street in Biddeford, multiple towers between Maine, New Hampshire and New Bedford, Massachusetts, and various other places. *Id.* Likewise, Jewett's phone pinged at various relevant locations including Maine to New Bedford and back again on that same date. *Id.*

The State also introduced portions of Labonte's phone calls from the jail, to which Labonte objected. *Transcript, July 1, 2025, at pp. 217:5-223:5.* Labonte objected to portions of the calls as misleading and unfairly prejudicial under Rule 403. *Id.* Admittedly, the Court did indicate that Labonte could play the calls in

their entirety, but acknowledged Labonte's so called "Hobson's choice" given the very prejudicial nature of the rest of the content of those calls. *Id.*, at pp. 219:5-222:11. A fact the State itself also acknowledged. *Id.*, at pp. 219:5-221:12.

Following jury trial, Labonte was convicted of Murder and sentenced to 50 years of incarceration. *Transcript, July 2, 2025; Sentencing Transcript, September 22, 2025.*

ISSUES PRESENTED

- I. The Court erred in allowing the State to introduce a portion of a notebook found at Labonte's residence without proper authentication and admitting portions of Labonte's jail calls, both in violation of Rule 403.**
- II. The Court abused its discretion in allowing the prosecutor to lead Labonte's sister A.T. during her direct examination.**
- III. The Court erred in admitting hearsay cellular phone records without the proper foundation and authentication.**
- IV. There was insufficient evidence that Labonte committed intentional and/or knowing murder.**

SUMMARY OF THE ARGUMENT

The Court erred by allowing the State to introduce a portion of a notebook found at Labonte's residence. That portion of the notebook referenced what the

State argued to the jury was a .45 caliber firearm. The State argued that this reference, proved that Labonte owned a .45 caliber firearm, the caliber that the State believed was used to kill Sharif. The issue presented is that the State did not properly authenticate the document in that it did not prove that Labonte wrote that entry, or if he did, when it was written. Multiple people resided or were staying in that residence and would have had the ability to write an entry in that journal. Without proper authentication, the notebook entry was not admissible.

It further violated Rule 403 of the Rules of Evidence as it was unduly confusing and misleading to the jury. Admitting only a portion of the notebook entry was seriously misleading to the jury. Even though the Court invited Labonte to admit the rest of the entry, that was not really a choice, as it left Labonte with the choice of admitting more harmful evidence against himself or limiting it to the misleading evidence.

The Court left Labonte with the same choice with regard to select portions of his jail calls. The State selected portions of jail calls to play that were unfairly prejudicial to Labonte. The Court, again, indicated that Labonte could introduce the remainder of the phone calls that the State chose to play, but once again leaving him to choose between introducing further prejudicial evidence against him or living with the Court's ruling.

Next, the Court abused its discretion in allowing the prosecutor to lead Labonte's minor sister during her testimony. During A.T.'s testimony, she repeatedly gave answers that the prosecution would not accept. That led to the prosecutor asking very pointed questions to A.T. that caused A.T. to answer in ways that favored the State. Despite several objections to the line of questioning, the Court allowed the State to unfairly lead A.T.

The Court also allowed the State to introduce cellular phone records despite proper authentication under the business records exception to the Rule against hearsay. Labonte objected to the certificates provided by the State to certify that the cellular records fell under the hearsay exception. The Court not allowing Labonte to cross-examine the cellular providers regarding the accuracy of their records and the coverage areas of each of the towers in question violated his right to confrontation of witnesses.

Finally, there was insufficient evidence to convict Labonte of intentional and/or knowing murder.

The State produced absolutely no evidence that anyone witnessed Mr. Labonte shoot Mr. Sharif. No murder weapon or bullet was ever found, linking Mr. Labonte to the murder. The only evidence of anyone seeing Labonte with a weapon was Mr. Mitchell, who was directly contradicted by Mr. Jewett, who denied seeing a gun in New Bedford. The State offered no evidence that Labonte

told anyone that he had killed Mr. Sharif. Further, as just stated, the State's main witnesses, Mitchell and Jewett contradicted each other and their own prior statements, rendering their testimony largely unbelievable.

Also, Labonte's little sister, A.T., who the State offered to provide testimony that she saw her brother at the residence on the date and time in question, never saw Labonte with a gun, did not see or hear him shoot Sharif, and did not see or hear him arguing with Sharif on the date in question. No one, not Mitchell, not Jewett, not A.T., and not the mailman that was right outside of the residence at the time of the alleged shooting, heard a gunshot.

Finally, and probably most importantly, the evidence did not support that Labonte intentionally or knowingly killed Sharif. Rather, Sharif was shot in the elbow. Dr. Funte specifically testified that had the bullet not gone through his arm and entered his torso, piercing his lungs, he likely would not have died as the result of the gunshot wound to the arm.

ARGUMENT

- I. The Court erred in allowing the State to introduce a portion of a notebook found at Labonte's residence without proper authentication, as well as portions of Labonte's jail calls, both in violation of Rule 403.**

(a) Notebook

At trial and over objection the State introduced evidence regarding a journal with rap lyrics or writings referencing murder and drug dealing seized when law enforcement executed a search warrant at Appellant's residence.

The Court also heard argument regarding the issue of the journal/notebook at the hearing on June 6, 2025. *See June 6, 2025, Motion Hearing Transcript.*

To authenticate an item of evidence, including an item of electronic evidence, "the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is." M.R. Evid. 901(a); *see State v. Churchill*, 2011 ME 121, ¶ 6, 32 A.3d 1026. "The standard embodies a flexible approach to authentication reflecting a low burden of proof." *Id.*, 2011 ME at ¶ 6. A party seeking the admission of a recording must provide a sufficient foundation to show that the recording was created and stored securely and systematically. *See State v. Coston*, 2019 ME 141, ¶¶ 8-9, 215 A.3d 1285, 1288.

The lyrics the State sought to and successfully introduced were: "I've got 20/20 vision, but this .45 makes it hard to see straight."⁵ *June 6, 2025, Motion Hearing Transcript*, at p. 38:2-4. The State argued it established that Labonte owned a .45 caliber handgun, which the writing does not even support. *Id.*, at p. 39:5-11. The State also argued that simply because the moniker Low G Folk was

⁵ The full text of that entry is at Appendix, p.59

written on the inside cover, that was enough to authenticate the document. *Id.*, at p. 39:19-23.

The State offered no evidence that the handwriting was Appellant's and not someone else's, such as anyone else that had access to that journal. Also, there was absolutely no evidence that proved that a .45 caliber gun killed Mr. Sharif or that Labonte was even referencing a gun in the limited provision it showed to the jury. No bullet was found and neither was any .45 ever found in the possession of Labonte. The State did not offer any evidence of when in time that statement was even authored or that it had any reference or relationship to the murder, itself.

In sum, the State did not offer any evidence that a .45 was used in the murder, that Labonte authored that statement, or that if he did, he was referring to a .45 firearm or the murder, and offered no evidence as to when that statement was written, indicating it could have been very remote in time before the murder.

Next, Appellant asserts that the single reference to a .45 was not even relevant to the matter at hand. However, even relevant evidence must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, or needless presentation.

M.R. Evid. 403.

For all of these reasons, the Court's admission of the notebook evidence deprived Mr. Labonte of a fair trial in this matter.

(b) Jail calls

Introduction of part of a recording from the jail referencing his little sister “ratting” on him, was misleading and unfairly prejudicial to Labonte and violated Rule 403.

In both of the situations, with the notebook and the recording from the jail, the State sought to pick and choose portions of each without further context. Of course, the Court allowed Labonte the opportunity to present whatever other portions of the journal/notebook and jail calls he wished to present, leaving him with a so called “Hobson’s choice,” as the rest of the lyrics in that portion of the journal/notebook and in the remainder of the conversations during the jail calls that were admitted were highly prejudicial to Labonte.

The Court’s allowance of admission of the journal lyrics and portions of jail calls was unfairly prejudicial to Labonte.

II. The Court abused its discretion in allowing the prosecutor to lead Labonte’s sister A.T. during her direct examination.

During A.T.’s testimony at trial, Labonte objected to the prosecutor’s repeated leading A.T. in her direct examination. *Transcript, June 26, 2025, at pp. 201:2-202:20; 206:8-210:1.*

Trial judges have “broad discretion in determining the scope” of the direct examination of a minor witness by the prosecution. *See State v. Hansen*, 2020 ME

43, ¶ 17, 228 A.3d 1082, 1088 (*quoting State v. Roman*, 622 A.2d 96 (Me. 1993)).⁶

Similarly, “the State is accorded much latitude in attempting to elicit relevant testimony from a child witness.” *Id.*

On direct examination of a friendly witness, a question is objectionably leading when it encourages the witness to adopt as his answer an assertion implicit in the question rather than to state the witness's own recollection. *See State v. Weese*, 424 A.2d 705, 709 (Me. 1981)(*citing Towle v. Aube*, 310 A.2d 259 (Me. 1973)). Every question is leading in the sense that it directs the witness's attention to a particular event or topic. *Id.* An objectionably leading question not only solicits an answer concerning a specific topic but also suggests a desired specific answer in regard to that topic. *Id.* It is not necessarily improper for counsel to ask his witness a detailed and pointed question that may be answered “yes” or “no.” Objectionable leading occurs when the question suggests to the witness the answer that is desired, thereby diminishing the likelihood that the answer will be the truth. *Id.* (*citing* R. Field & P. Murray, *Maine Evidence* § 611.3 at 155 (1976); 3 J. Wigmore, *Evidence* ¶ 769 at 154-55 (Chadbourn Rev. 1970)).

During a break in the testimony of Labonte’s younger sister A.T., the prosecutor also approached A.T. while she was sitting in the witness box and

⁶ Most of the case law regarding leading of child witnesses deal with cases involving sexual abuse, as opposed to a 12 year old witness to an alleged murder.

engaged in conversation. *Id.*, at pp. 235:14-237:2. Mr. Labonte observed this interaction and believed he heard the prosecutor mention his name during the conversation. *Id.* The prosecutor informed the Court that the contents of her conversation with A.T. were solely about court procedure that was about to occur. *Id.* The Court took no further action with regard to this issue. *Id.*

III. The Court erred in admitting hearsay cellular phone records without the proper foundation and authentication.

Appellant objected to admission of any documents under the business-records exception absent a properly authenticated custodian affidavit under Rule 902(11) or live custodian testimony establishing the requisite foundation under Rule 803(6). Additionally, Appellant argued that the State had failed to lay a proper foundation under M. R. Evid. 803(6) and 902(11).

A business-records declaration must be supported by an affidavit or declaration from a qualified custodian covering: (1) timing and method of record creation; (2) source of information; (3) record was kept in the course of regularly conducted activity of the business; (4) making the record was a regular practice of that activity; and (5) that these are the original records. Although documents kept in the regular course of business may be admitted at trial under a hearsay exception, “that is not the case if the regularly conducted business activity is the

production of evidence for use at trial.” *See Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 321, 129 S. Ct. 2527, 2538, 174 L. Ed. 2d 314 (2009).

Labonte also argued that the admission of the records violated his 6th Amendment right to confront witnesses. *See June 6, 2025, Motion Hearing Transcript*.

“The Confrontation Clause applies only to statements that are (1) hearsay and (2) testimonial.” *See State v. Judkins*, 2024 ME 45, ¶ 12, 319 A.3d 443, 448. “A testimonial statement is typically a solemn declaration or affirmation made for the purpose of establishing or proving some fact.” *Id.* (quoting *State v. Beeler*, 2022 ME 47, ¶ 21, 281 A.3d 637). “In determining whether an out-of-court statement qualifies as testimonial, courts look at whether the primary purpose of the statement is to establish or prove a fact to be used later in trial.” *Id.* If an out-of-court statement is testimonial, it is inadmissible in a trial if the declarant does not testify, unless the declarant “is unavailable and the defendant had a prior opportunity to cross-examine the declarant.” *Id.* The prohibition against testimonial statements “applies in full to forensic evidence” and to “forensic reports.” *See State v. Thomas*, 2025 ME 34, ¶ 52, 334 A.3d 686, 701 (quoting *Smith v. Arizona*, 602 U.S. 779, 144 S.Ct. 1785, 219 L.Ed.2d 420 (2024)).

Admission of these reports without live testimony from the analysts or a valid stipulation violated the Sixth Amendment.

Further, the Affidavits themselves were defective under the Maine Rule of Evidence, as they referenced the Federal Rule and not the Maine Rule. Without such an identification, the affiants did not adequately indicate they were familiar with the Maine Rule and its requirements. The Affidavits sought to establish that the information in the records was accurately depicted as to what had been requested, but not necessarily that the information was what happened in reality. For instance, the State sought to establish that Appellant's phone was in a certain location at a certain time, based on the certified cell phone records. The State utilized the hearsay records to establish that it was in fact accurate that Appellant's phone pinged off certain towers at certain times. Of importance is that the records did not establish the accuracy of where the phone was at any particular time. It could not be established that the phone was 10, 20 or even 50 miles away, leading to mere speculation and misleading information.

The Affidavits also did not establish that the information contained in the records is actually accurate, as opposed to some internal error or other issue with the information. They simply regurgitated that the person printed out the records that were in the system. The information was testimonial in nature and should have been subject to confrontation by Labonte.

As such, the cell phone records and location data were inadmissible at trial.

IV. When viewed in the light most favorable to the State, the evidence in this matter was insufficient to support a conviction for intentional and/or knowing murder.

Generally, when reviewing the sufficiency of the evidence to support a conviction, the Law Court views the evidence in the light most favorable to the State to determine whether the jury could have rationally found beyond a reasonable doubt every element of the offense charged. *See State v. Treadway*, 2014 ME 124, ¶ 8, 103 A.3d 1026, 1029(citing *State v. Haag*, 2012 ME 94, 48 A.3d 207).

In this case, the State produced absolutely no evidence that anyone witnessed Mr. Labonte shoot Mr. Sharif. No murder weapon or bullet was ever found, linking Mr. Labonte to the murder. The only evidence of anyone allegedly seeing Labonte with a weapon on November 24th was Mr. Mitchell, who was directly contradicted by Mr. Jewett, who denied seeing a gun in New Bedford. The State offered no evidence that Labonte told anyone that he had killed Mr. Sharif. Further, as just stated, the State's main witnesses, Mitchell and Jewett contradicted each other and their own prior statements, rendering their testimony largely unbelievable.

Also, Labonte's little sister, A.T., who the State offered to provide testimony that she saw her brother at the residence on the date and time in question, never

saw Labonte with a gun, did not see or hear him shoot Sharif, and did not see or hear him arguing with Sharif on the date in question. No one, not Mitchell, not Jewett, not A.T. and not the mailman that was right outside of the residence at the time of the alleged shooting, heard a gunshot.

Finally, and probably most importantly, the evidence did not support that Labonte intentionally or knowingly killed Sharif. Rather, Sharif was shot in the elbow. Dr. Funte specifically testified that had the bullet not gone through his arm and entered his torso, piercing his lungs, he likely would not have died as the result of the gunshot wound to the arm. *Transcript, June 25, 2025, at pp. 172:17-173:3.*

Without any of this evidence, even when viewed in a light most favorable to the State, the State could not have met its burden of proof beyond a reasonable doubt that Labonte intentionally and/or knowingly killed Sharif. At best, the evidence showed that maybe Labonte shot Sharif, but not with the intention of killing him.

SENTENCE REVIEW

The Court has granted Labonte the right to appeal his sentence in this matter.

In reviewing a criminal sentence, the Supreme Judicial Court shall consider:

“1. Propriety of sentence. The propriety of the sentence, having regard to the nature of the offense, the character of the offender, the protection of the public interest, the effect of the offense on the victim and any other relevant sentencing factors recognized under law; and

2. Manner in which sentence was imposed. The manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based.”

See State v. Murray-Burns, 2023 ME 21, ¶ 15, 290 A.3d 542, 548.

The Law 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.” *See State v. Plummer*, 2020 ME 143, ¶ 10, 243 A.3d 1184, 1187(citing *State v. Sweeney*, 2019 ME 164, 221 A.3d 130). The Law Court reviews the sentencing court's analysis at each step to determine “whether [it] disregarded the relevant sentencing factors or abused its sentencing power.” *Id.*

In this case, the Court erred in setting the basic sentence and maximum sentence. The evidence was that Labonte went to 13 State Street to confront his sister regarding her relationship with Sharif. According to A.T., Labonte’s little sister, there was no argument and Labonte was calm and even pouring himself juice in the kitchen. There is no evidence that Labonte went to the residence intending to kill Sharif.

In fact, the medical examiner specifically testified that had the bullet that Labonte fired not gone through Sharif’s arm and entered his torso, piercing his lungs and heart, he likely would not have died as the result of the gunshot wound to the arm. *Transcript, June 25, 2025, at pp. 172:17-173:3.*

The evidence in this case showed that the murder was on the lowest level of seriousness when considered against all manner of committing murder. Sharif was shot in the elbow, not the head or execution style.

Further, the Court failed to adequately consider Labonte's upbringing in weighing the aggravating and mitigating factors in the second step of the sentencing analysis. Labonte provided the Court with a mitigation analysis report regarding all of the mitigating factors for the Court to consider, including Mr. Labonte's childhood. While the Court did give consideration to some of the mitigating factors contained in the report, Labonte suggests those factors outweighed the aggravating factors and warranted a less significant maximum sentence than 50 years.

CONCLUSION

In conclusion, for the above stated reasons, Labonte is entitled to a new trial in this matter or judgment of acquittal.

DATED: April 21, 2026

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CERTIFICATE OF SERVICE

I, Verne Paradie, Jr., hereby certify that on April 21, 2026, I served a copy of this Brief via email on:

AAG, Katie Sibley

DATED: April 21, 2026

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