

**STATE OF MAINE  
YORK, ss.**

**SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT  
DOCKET NO: YOR-25-446**

**STATE OF MAINE,  
Appellee**

**v.**

**LORENZE LABONTE,  
Appellant**

**ON APPEAL FROM THE SUPERIOR COURT**

**BRIEF OF APPELLEE**

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## TABLE OF CONTENTS

| <u>Section</u>                                                                                                                                                                                                                                                                | <u>Page</u> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Table of Authorities .....                                                                                                                                                                                                                                                    | 4           |
| Statement of Facts and Relevant Procedural History .....                                                                                                                                                                                                                      | 6           |
| Statement of the Issues .....                                                                                                                                                                                                                                                 | 17          |
| Summary of Argument .....                                                                                                                                                                                                                                                     | 18          |
| Argument .....                                                                                                                                                                                                                                                                | 20          |
| <b>I. The trial court did not err in its evidentiary rulings regarding Labonte's notebook and jail calls .....</b>                                                                                                                                                            | <b>20</b>   |
| <b>A. The trial court did not err by finding that Labonte's notebook was properly authenticated .....</b>                                                                                                                                                                     | <b>20</b>   |
| <b>B. The trial court did not err by finding that the notebook and jail calls were relevant and not unfairly prejudicial .....</b>                                                                                                                                            | <b>21</b>   |
| <b>II. This Court should not address Labonte's argument regarding the State's direct examination of A.T. because it is inadequately developed; alternatively, the trial court did not abuse its discretion, and any perceived error was harmless .....</b>                    | <b>23</b>   |
| <b>A. Because Labonte failed to adequately develop this argument, this Court should decline to address this issue.....</b>                                                                                                                                                    | <b>23</b>   |
| <b>B. Alternatively, the trial court did not abuse its discretion regarding the direct examination of A.T., and any perceived error was harmless.....</b>                                                                                                                     | <b>24</b>   |
| <b>III. Labonte's argument that admission of the cellphone records violated his right to confrontation is unpreserved; even if preserved, no constitutional violation occurred; and the trial court did not abuse its discretion by admitting the cellphone records .....</b> | <b>26</b>   |

|                                                                                                                                                                                    |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| A. Labonte’s confrontation argument is unpreserved<br>because it was not specifically raised to the trial court .....                                                              | 26 |
| B. The trial court committed no error, much less<br>obvious error, by admitting the cellphone records<br>because such records do not implicate the right to<br>confrontation ..... | 28 |
| C. The trial court did not abuse its discretion by finding<br>that the cellphone records were properly authenticated<br>and thus admissible .....                                  | 29 |
| IV. The evidence was sufficient to sustain Labonte’s<br>murder conviction.....                                                                                                     | 31 |
| V. The sentencing court committed no obvious error in<br>imposing Labonte’s sentence .....                                                                                         | 35 |
| Conclusion .....                                                                                                                                                                   | 38 |
| Certificate of Service .....                                                                                                                                                       | 39 |

## **TABLE OF AUTHORITIES**

| <b>Cases</b>                                                     | <b>Page</b> |
|------------------------------------------------------------------|-------------|
| <i>Melendez-Diaz v. Massachusetts</i> , 557 U.S. 305 (2009)..... | 28          |
| <i>Oregon v. Kennedy</i> , 456 U.S. 667 (1982).....              | 21          |
| <i>State v. Abdi</i> , 2015 ME 23, 112 A.3d 360.....             | 28-30       |
| <i>State v. Ardolino</i> , 1997 ME 141, 697 A.2d 73 .....        | passim      |
| <i>State v. Brown</i> , 2017 ME 59, 158 A.3d 501 .....           | 33          |
| <i>State v. Coleman</i> , 2024 ME 35, 315 A.3d 698.....          | 35          |
| <i>State v. De St. Croix</i> , 2020 ME 142, 243 A.3d 880 .....   | 35, 37      |
| <i>State v. Dumas</i> , 2010 ME 57, 997 A.2d 760.....            | 34          |
| <i>State v. Gove</i> , 379 A.2d 152 (Me.1977) .....              | 34          |
| <i>State v. Hansen</i> , 2020 ME 43, 228 A.3d 1082 .....         | 24          |
| <i>State v. Lord</i> , 2019 ME 82, 208 A.3d 781 .....            | 37          |
| <i>State v. Miller</i> , 2026 ME 37, --- A.3d --- .....          | 24, 26      |
| <i>State v. Moore</i> , 2023 ME 18, 290 A.3d 533 .....           | 24          |
| <i>State v. Pendleton</i> , 2025 ME 40, 334 A.3d 752.....        | 20-21       |
| <i>State v. Reeves</i> , 2022 ME 10, 268 A.3d 281 .....          | 26-28       |
| <i>State v. Rosario</i> , 2022 ME 46, 280 A.3d 199 .....         | 35-36       |
| <i>State v. Schofield</i> , 2006 ME 101, 904 A.2d 409.....       | 37          |
| <i>State v. Shortsleeves</i> , 580 A.2d 145 (Me. 1990).....      | 37          |

|                                                                     |             |
|---------------------------------------------------------------------|-------------|
| <i>State v. Thomas</i> , 2025 ME 34, 334 A.3d 686.....              | 28-29       |
| <i>State v. Waterman</i> , 2010 ME 45, 995 A.2d 243 .....           | 36          |
| <i>United States v. Pires</i> , 138 F.4th 649 (1st Cir. 2025) ..... | 26-27       |
| <b>Statutes, Rules, &amp; Constitutional Provision</b>              | <b>Page</b> |
| 15 M.R.S. § 2115 (2023).....                                        | 16          |
| 15 M.R.S. § 2151 (2023).....                                        | 16          |
| 15 M.R.S. § 393 (2023) .....                                        | 14          |
| 17-A M.R.S. § 1602 (2023) .....                                     | 35-36       |
| 17-A M.R.S. § 201 (2023).....                                       | 14, 31      |
| 17-A M.R.S. § 35 (2023).....                                        | 34          |
| 17-A M.R.S. § 454 (2023).....                                       | 14          |
| M.R. App. P. 20.....                                                | 16          |
| M.R. App. P. 2A .....                                               | 16          |
| M.R. Evid. 401 .....                                                | 21          |
| M.R. Evid. 403 .....                                                | 21          |
| M.R. Evid. 611 .....                                                | 24          |
| M.R. Evid. 803 .....                                                | passim      |
| M.R. Evid. 901 .....                                                | 20          |
| M.R. Evid. 902 .....                                                | passim      |
| U.S. Const. amend. VI .....                                         | 26          |

## **STATEMENT OF FACTS AND RELEVANT PROCEDURAL HISTORY**

### ***Factual Background***

In November 2023, Ariana Tito (Tito) and her ten-year-old sister “A.T.” resided with their mother in an apartment on State Street in Biddeford. (Trial Transcript II (6/26/25), 185-191 [T.\_\_\_\_, \_\_\_\_]). Tito and A.T.’s older brother, Lorenze Labonte (Labonte), had previously lived with them at the State Street apartment but Labonte now lived with his girlfriend Kayla Grant (Grant) on Temple Street in Saco. (*Id.* at 27-29, 37-38, 189-191).

On November 24, 2023, just before 1:00 p.m., Labonte and Tito had an argument over SnapChat. (T.V. (7/1/25), 42-53, 89-91; State’s Exhibit 200 [St. Ex. \_\_\_\_]). Labonte was furious with Tito because she had lied to him about Ahmed Sharif (Sharif) being at the State Street apartment. (*Id.*). Labonte did not want Sharif at the apartment, especially with A.T. there, because he believed his friend’s sister had died from drugs Sharif had given her. (T.II., 53-54; T.V., 42-53; St. Exs. 200, 211B). Tito laughed at Labonte and remained defiant, telling him she could have whoever she wanted in her bedroom. (T.V., 48; St. Ex. 200).

Around 1:40 p.m., Labonte called Zachary Jewett (Jewett) and Donald Mitchell (Mitchell) and offered them “a little bit of crack” for an “emergency ride” to the State Street apartment in Biddeford. (T.II., 21, 36-37, 120, 127; T.IV. (6/30/25), 160, 181; St. Ex. 201). Jewett and Mitchell agreed and proceeded in

Jewett's vehicle to Labonte's home on Temple Street in Saco. (T.II., 32-38, 123-126). Shortly after they arrived, and aware that the area of the State Street apartment had surveillance cameras, Labonte exited his home wearing all black clothing, including a mask that covered his entire head, and got in the rear passenger seat of Jewett's vehicle. (T.II., 38-42, 46-48, 126-137).

At 1:58 p.m., Jewett pulled into the driveway of the State Street apartment. (T.I. (6/25/25), 193, 207-211; T.II., 43-44, 140; St. Exs. 206-206B). Labonte exited the rear passenger seat of Jewett's vehicle and attempted to enter the apartment through the side door facing the driveway, but the door was locked. (T.I., 193, 195, 207-211; T.II., 43-44, 140; St. Exs. 206-206B). Although A.T. went to the side door and looked through the curtain to see who was there, Labonte had already circled around the back of the apartment to Tito's bedroom window. (T.I., 193, 201-211; T.II., 43-45, 142, 197; St. Exs. 207-207B).

Labonte entered the apartment through Tito's bedroom window and spoke to A.T. in the kitchen. (T.II., 200, 213; St. Exs. 207-207B). Labonte asked A.T. to leave the apartment and go to her cousin's home because he and Tito were going to argue. (T.II., 211-212). A.T. agreed and exited the side door where she noticed a vehicle she did not recognize in the driveway. (T.I., 194-195; T.II., 197-199, 214; St. Exs. 206-206B). A.T. assumed the vehicle was waiting for

Labonte because he did not drive, he would frequently get rides to the State Street apartment, and whoever drove him would then wait for him. (T.II., 214). Seconds after A.T. exited the apartment, Labonte texted Jewett “wait” and then “be right out.” (T.IV., 181-184; St. Ex. 201). A.T. started walking towards her cousin’s home but, realizing she had forgotten her jacket, turned around, entered the apartment through the front door, and quickly left again. (T.II., 194, 202, 211-212, 219; St. Ex. 206). Once A.T. left, only Labonte, Tito, and Sharif were inside the apartment. (*Id.* at 219).

Approximately two minutes after A.T. finally left the apartment, Labonte came bursting out the side door, still wearing the head covering mask, and jumped into the rear passenger seat of Jewett’s vehicle. (T.II., 48-49, 145; St. Ex. 206-206B). Labonte frantically told Jewett and Mitchell they had “to get out of here.” (T.II., 48-49). Jewett then “back[ed] [his vehicle] up real fast and took off.” (T.I., 193, 204; T.II., 48-49; St. Exs. 206-206B). Labonte insisted that Jewett had “to bring [him] to New Bedford,” and said he would pay Jewett with “an ounce” of cocaine for the ride to Massachusetts. (T.II., 48-49, 145). As Jewett drove towards the highway, Labonte threw items out the vehicle’s window and directed Jewett to pull down a road just before the highway, where he discarded additional items. (T.II., 48-54, 157).

Moments after Labonte fled the State Street apartment, Tito called 911. (T.I., 65, 68). Within minutes, Biddeford Patrol Sergeants Andrew Shortill and Brian Mills arrived and entered the apartment. (*Id.* at 69-70, 76-77, 95-100). They followed the sounds of Tito's screams to her bedroom where they found her hysterically attempting to give Sharif, who was unresponsive on the floor, CPR. (*Id.* at 76-78). No one else was inside the apartment. (*Id.* at 99-100). Tito screamed that Sharif had been shot and Sgts. Shortill and Mills decided to bring him out to the driveway to give EMS plenty of "space to provide lifesaving treatment." (*Id.* at 79-80). Tito later explained that she and Sharif had been in her bedroom when "a little short dude" with "dark skin" and "wearing a mask" just walked into her room. (St. Ex. 205A). The "little short dude" asked Sharif if he knew someone's name and then shot Sharif. (*Id.*).

As they brought Sharif out of the apartment, Sgt. Shortill observed "a gunshot wound under [Sharif's] right arm." (T.I., 80-81). The officers had observed no firearm inside the apartment and, based on the clothes she was wearing, Tito could not have concealed a firearm on her person. (*Id.* at 106, 113-114; St. Ex. 205A). Indeed, no firearm was ever found inside the apartment. (T.III. (6/27/25), 57). However, in Tito's bedroom, evidence response technicians later found a fired .45 caliber casing in the bed sheets, a single bullet

hole in the wall near the bed, and a substantial amount of Sharif's blood on the bed's boxspring. (*Id.* at 40, 43-45, 47; T.IV., 42; St. Exs. 45, 55, 63).

The officers loaded Sharif into an ambulance waiting in the driveway. (T.I., 126). He had no pulse and was not breathing. (*Id.*). EMS worked to resuscitate Sharif for nearly half an hour, but despite their valiant efforts, Sharif was pronounced dead at 2:38 p.m. (*Id.* at 130-137). During Sharif's autopsy, Deputy Chief Medical Examiner Dr. Liam Funte found that a single bullet had gone through Sharif's left arm near his elbow, entered the left side of his chest damaging both lungs and his aorta leading to significant blood loss, and had exited the right side of his chest. (*Id.* at 145, 152, 162-163). Dr. Funte also determined that holes in Sharif's bloody clothing aligned with the bullet wounds to his body. (*Id.* at 153-154). Based on his examination, Dr. Funte concluded that Sharif's cause of death was "a gunshot wound of the arm into ... the torso." (*Id.* at 169).

Meanwhile, Labonte, Jewett, and Mitchell were on their way to New Bedford, Massachusetts. (T.IV., 164-166, 176-177; St. Ex. 201). During the drive, Labonte made multiple phone calls. (T.II., 160-161). In one, he discussed selling a firearm. (*Id.*). In another Labonte stated, "I hit him with a four-five" because of Sharif's alleged involvement in the overdose death of Labonte's friend's sister. (*Id.* at 52-53, 160-161). Mitchell knew this reference meant Labonte had

killed someone with a .45 caliber firearm. (*Id.* at 52-54). Labonte also told Jewett and Mitchell that if they were contacted by the police, they needed to say that it was a “Somalian” guy that they had brought to the State Street apartment. (*Id.* at 54-55).

The trio arrived in New Bedford, Massachusetts around 5:44 p.m. and met with a vehicle waiting for them in a parking lot. (*Id.* at 55-56, 161-162; St. Ex. 201). At this time, Mitchell saw that Labonte was in possession of a firearm. (T.II., 93). Labonte gave Jewett and Mitchell money and directed an occupant of the waiting vehicle to give them drugs for the drive back to Maine. (*Id.* at 57, 161-162). After receiving their money and drugs, Jewett and Mitchell promptly headed back to Maine while continuing to communicate with Labonte via cellphone. (T.IV., 166-167, 178-179; St. Ex. 201).

Due to trouble with his vehicle, Jewett had to stop at the Industrial Park and Ride in Saco. (T.II., 58-61, 162-163). Mitchell contacted “Desiree,” who was at Labonte’s home on Temple Street, for a ride. (*Id.*). “Desiree” brought Jewett and Mitchell to Labonte’s home where they were provided their promised “ounce of powder cocaine” by Labonte’s girlfriend Grant. (*Id.* at 58-63, 164-165).

On November 25, 2023, at around 12:19 a.m., Labonte left Massachusetts traveling towards Maine. (T.IV., 167-168; St. Ex. 201). Around 1:51 a.m., Grant

took screenshots of several text messages sent to her by Labonte that stated, “I’m sorry for everything” and “PROMISE ME NO MATTER HOW LONG THESE CRACKERS GIVE ME YOU GON RIDE THROUGH THIS [expletive].” (T.V., 85-89; St. Exs. 229D, 229F). Labonte arrived back in the Biddeford area around 2:37 a.m. (T.IV., 167-168; St. Ex. 201).

Later that same morning, Jewett and Mitchell were located by officers with the Old Orchard Police Department. (T.II., 64). Jewett declined to speak with detectives about what occurred at the State Street apartment. (T.II., 166; T.IV., 110-112). Mitchell agreed to an interview but, fearing Labonte would harm him or his family, he told detectives the “Somalian” story as directed by Labonte. (T.II., 76-77).

On November 27, 2023, Labonte was arrested for murdering Sharif. (T.IV., 131). The Maine State Police also executed a search warrant at Labonte’s Temple Street home. (T.III., 90-91). Inside Labonte’s home, officers found what appeared to be cocaine, hidden in the toilet tank, and a composition style notebook. (T.III., 90-91, 127-128; St. Exs. 128-130, 230). “Low Gee Folk,” one of Labonte’s known nicknames, was written in the name section on the inside cover of the notebook. (T.II., 29-124; T.III., 129; St. Ex. 231). On a page in the notebook, Labonte had written, “I got 20-20 vision but this 45 makes it hard to see straight.” (T.III., 131; St. Ex. 232). Less than a year later, on October 7, 2024,

Labonte rapped this exact line to Grant in call he placed to her from a correctional facility. (St. Ex. 234A).

Shortly after Labonte's arrest, Jewett agreed to an interview and told detectives that he had driven Labonte to the State Street apartment and then to New Bedford on November 24, 2023. (T.IV., 116). During a phone call Labonte made from a correctional facility on December 18, 2023, he expressed his frustration that Jewett was "lying" about him, and his thanks that Mitchell was "staying solid" by providing police with the false "Somalian" story. (T.V., 130-136; St. Ex. 211H).

However, on December 20, 2023, Mitchell met with detectives and admitted that the "Somalian" story was false. (T.II., 76-77). Mitchell provided information consistent with that provided by Jewett, that Labonte was the person they had brought to the State Street apartment just prior to Tito's 911 call, and then to New Bedford on November 24, 2023. (*Id.* at 76-77, 105). During a phone call between Labonte and an unidentified person on February 17, 2024, Labonte complained that "everyone ha[d] told on [him], even [A.T.]." (St. Ex. 211J).

### ***Procedural Background***

On January 3, 2024, the York County Grand Jury returned an indictment charging Labonte with one count of intentional or knowing murder, 17-A M.R.S. § 201(1)(A) (2023); one count of possession of a firearm by a prohibited person, 15 M.R.S. § 393(1)(A-1) (2023); and one count of tampering with a witness, informant, juror or victim. 17-A M.R.S. § 454(1)(B)(1) (2023); *State of Maine v. Lorenze Labonte*, Superior Court, York County, Docket No. YRKCD-CR-2023-03636; (Appendix, 15-16 [A. \_\_]). Labonte entered not guilty pleas at his arraignment on January 8, 2024. (A. 4).<sup>1</sup>

On May 7, 2025, the State filed a motion in limine regarding the admissibility of business records from Verizon. (A. 9, 22-30). On May 28, 2025, Labonte filed a motion in limine to exclude certain evidence; specifically, the contents of his notebook. (A. 10, 31-34). On June 6, 2025, a hearing was held on the issues raised by the parties in their respective motions. (*Martemucci, J., presiding*). (A. 4, 22-39). The court deferred ruling on Labonte's motion orally and in a written order. (A. 40-43; Motion in Limine Transcript, 42 [MIL Tr. \_\_]).

On June 11, 2025, the trial court entered an order denying the State's motion, finding that Verizon's certificates of authenticity were insufficient

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<sup>1</sup> On June 24, 2025, the State dismissed the tampering charge prior to the start of trial. (A. 11, 18).

because they lacked case specific information, such as Labonte's name and the criminal docket number. (A. 10; "*Order on State's Motion in Limine for Pretrial Ruling on the Admissibility of Records*," dated June 10, 2025).

On June 17, 2025, the State filed a motion to reconsider but also submitted updated certificates from Verizon that included the case specific information referenced by the court. (A. 10; "*Motion to Reconsider Ruling Denying State's Motion for Admission of Verizon Records*," dated June 17, 2025).

On June 23, 2025, the trial court issued an order granting the State's motion to reconsider and preliminarily ruling that the Verizon records were admissible pursuant to M.R. Evid. 803(6) and 902(11). (A. 10, 44-45).

On June 25, 2025, the jury began receiving evidence on the charge of murder. (*Martemucci, J. presiding*) (A. 4, 11).<sup>2</sup> On July 1, 2025, after the State rested its case-in-chief, Labonte moved for judgment of acquittal, which the trial court orally denied. (T.V., 167-168; A. 12). On July 2, 2025, the jury returned its verdict that Labonte was guilty of murder. (T.VI., 133; A. 12).

On September 22, 2025, the court adjudged Labonte guilty as convicted by the jury. (*Martemucci, J.*). (A. 13, 18-21). The court also entered a finding that Labonte was guilty of illegally possessing a firearm. (A. 13, 18-21). The court

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<sup>2</sup> Labonte proceeded jury waived on the illegal possession of a firearm charge; however, the docket record does not specify when he waived his right to a jury trial. (A. 3-14).

then imposed a sentence of 50 years to the Department of Corrections on the murder conviction, and a concurrent five years to the Department of Corrections on the firearm conviction. (A. 18-21).

On October 2, 2025, Labonte filed a notice of direct appeal pursuant to M.R. App. P. 2A(1) and 15 M.R.S. § 2115. *State of Maine v. Lorenze Labonte*, Yrk-25-466; (A. 13). Labonte also filed a separate application for leave to appeal his sentence pursuant to M.R. App. P. 20 and 15 M.R.S. § 2151. *State of Maine v. Lorenze Labonte*, SRP-25-447; (A. 13). On January 15, 2026, the Sentence Review Panel issued an order granting Labonte's application for leave to appeal his sentence.

## **STATEMENT OF THE ISSUES**

- I. The trial court did not err in its evidentiary rulings regarding Labonte's notebook and jail calls.**
- II. This Court should not address Labonte's argument regarding the State's direct examination of A.T. because it is inadequately developed; alternatively, the trial court did not abuse its discretion, and any perceived error was harmless.**
- III. Labonte's argument that admission of the cellphone records violated his right to confrontation is unpreserved; even if preserved, no constitutional violation occurred; and the trial court did not abuse its discretion by admitting the cellphone records.**
- IV. The evidence was sufficient to sustain Labonte's murder conviction.**
- V. The sentencing court committed no obvious error in imposing Labonte's sentence.**

## **SUMMARY OF ARGUMENT**

1. The trial court did not clearly err or abuse its discretion by admitting into evidence a portion of Labonte's notebook or his jail calls. The trial court properly concluded that the notebook was sufficiently authenticated because it was found in Labonte's home, had his nickname written on the inside cover, and he recited exact lines from the notebook in recorded phone calls. The trial court also properly concluded that the notebook and jail calls were relevant given their interrelation with other evidence. The fact that Labonte chose not to present additional evidence from his notebook or calls, because of the prejudicial nature of his own words, does not render this evidence unfairly prejudicial.

2. This Court should decline to assess whether the trial court abused its discretion when determining the scope of the State's direct examination of A.T. Labonte's argument on this issue is inadequately developed and relies on a single record citation that is neither from the State's questioning nor the trial court's related ruling. Alternatively, the State's questioning was proper, the trial court did not abuse its discretion, and any perceived error was harmless.

3. Labonte did not specifically raise a constitutional objection to the admissibility of the cellphone records in the trial court. Thus, his primary argument on appeal—that admission of those records violated his right to

confrontation—is unpreserved. Accordingly, this Court should decline to review this issue. However, even if preserved, the trial court committed no error, much less obvious error, by admitting these records. Business records, such as the cellphone records here, do not implicate the right to confrontation, and the records were admissible pursuant to the applicable Rules of Evidence.

4. The evidence was sufficient to sustain Labonte’s murder conviction. Although no witness testified to directly observing Labonte shoot the victim, the record contains substantial circumstantial evidence of his guilt beyond a reasonable doubt. That evidence includes, but is not limited to, direct evidence of his conduct before and after the shooting, much of which was corroborated by video surveillance and other digital evidence. Moreover, shooting another human being in the torso at close range, along with the other evidence of preparation, more than supports the finding of intentional or knowing conduct.

5. The sentencing court would have been well within its discretion to impose a basic sentence of life. Thus, the court’s erroneous conclusion that its factual findings at sentencing required proof beyond a reasonable doubt, which resulted in the imposition of a term of years, inured to the benefit of Labonte. The sentencing court also committed no error in its weighing of the aggravating and mitigating factors. A disagreement over the weight of a particular factor does not support a finding of error.

## **ARGUMENT**

### **I. The trial court did not err in its evidentiary rulings regarding Labonte's notebook and jail calls.**

#### **A. The trial court did not err by finding that Labonte's notebook was properly authenticated.**

A trial court's finding that an item of evidence has been properly authenticated is "review[ed] for clear error." *State v. Pendleton*, 2025 ME 40, ¶ 38, 334 A.3d 752. An item of evidence is properly authenticated when the proponent "produce[s] evidence sufficient to support a finding that the item is what the proponent claims it is." M.R. Evid. 901(a). This standard is "flexible" and "reflect[s] a low burden of proof." *Pendleton*, 2025 ME at ¶ 39 (citation omitted). Proper authentication does not require direct evidence, *Id.* at ¶ 40; and can be based on "[a]pppearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances." M.R. Evid. 901(b)(4).

Multiple pieces of evidence supported the trial court's finding of authentication. The notebook was in Labonte's home. The inside cover included a nickname Labonte used to identify himself. Labonte used identical language to that which appeared in the notebook in recorded phone calls. (T.III., 127-129; T.V., 126; St. Ex. 234A). The totality of this evidence satisfies the "low burden of proof" sufficient for admissibility. *Pendleton*, 2025 ME at ¶ 39. Any

factual issues regarding the notebook's ownership and the identity of the writer were questions of weight for the jury, "not its admissibility." *Id.* (citation omitted). Thus, the trial court did not err by finding that the notebook was properly authenticated.

**B. The trial court did not err by finding that the notebook and jail calls were relevant and not unfairly prejudicial.**

This Court reviews the trial court's factual findings supporting admission "for clear error," and the court's ultimate decision to admit evidence "for an abuse of discretion." *Pendleton*, 2025 ME at ¶¶ 30, 33.

"Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." M.R. Evid. 401. Although relevant, evidence may be excluded "if its probative value is substantially outweighed by a danger of ... unfair prejudice." M.R. Evid. 403.

"Every act on the part of a rational prosecutor during trial is designed to 'prejudice' the defendant by placing before the judge or jury evidence leading to a finding of his guilt." *Oregon v. Kennedy*, 456 U.S. 667, 674 (1982). Thus, unfair prejudice requires "more than simply damage to the opponent's cause." *State v. Ardolino*, 1997 ME 141, ¶ 10, 697 A.2d 73. The evidence must be so

highly prejudicial that the danger of the factfinder “decid[ing] on an improper basis” *substantially* outweighs the evidence’s probative value. *Id.*

Both the passage from Labonte’s notebook and his jail calls were highly relevant to, and probative of, the disputed issue at trial—whether Labonte shot and killed Sharif. Moreover, the relevancy and high probative value of this evidence is demonstrated by its interrelation with other evidence, including one fired .45 caliber casing found in the bedroom where police located Sharif; a single defect in the bedroom wall consistent with a bullet; Sharif is dead from a single gunshot wound; Labonte’s statement, “I hit him with a four-five,” in the aftermath of Sharif’s shooting; Labonte’s discussion of wanting to sell a gun; Mitchell observing Labonte in possession of a gun the day of Sharif’s shooting; Labonte’s statements that Mitchell was “solid” and Jewett was lying; Labonte rapping the exact “45” passage from the notebook; and Labonte’s admission that “everyone has told on [him], even [A.T.]” (T.I., 77-78, 99-100, 169; T.II., 52-53, 93, 160-161; T.III., 34-45; St. Ex. 45, 211H, 211J, 234A).

Labonte’s argument fails to articulate anything irrelevant or *unfairly* prejudicial about this evidence. (Blue Brief, 23-24). The fact that the notebook and his jail calls tended to make a fact of consequence, i.e. that he shot Sharif, more probable, is insufficient to find unfair prejudice. *Ardolino*, 1997 ME at ¶ 10. Similarly, the fact that he was left “with a so called ‘Hobson’s choice,’ ” does

not establish unfair prejudice. (Bl. Br. 24). He was afforded the opportunity to present additional evidence to provide the “further context” he now complains was lacking. (*Id.*). The fact that he declined to do so, because his own words “were highly prejudicial to [him],” establishes no basis to conclude that the trial court erred or that his conviction should be vacated. (*Id.*).

**II. This Court should not address Labonte’s argument regarding the State’s direct examination of A.T. because it is inadequately developed; alternatively, the trial court did not abuse its discretion, and any perceived error was harmless.**

**A. Because Labonte failed to adequately develop this argument, this Court should decline to address this issue.**

Next, Labonte contends that the trial court abused its discretion by permitting the State minimal leeway in the direct examination of child witness A.T. (Bl. Br. 24-26). However, other than noting that he objected, Labonte develops no argument as to why or how the trial court erred. (*Id.*). Indeed, Labonte’s only record citation in support of this argument is neither to the State’s questioning nor to the trial court’s ruling on his objection, but to alleged conduct during a breaking in the testimony. (*Id.* at 26).<sup>3</sup>

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<sup>3</sup> The citation relied on by Labonte addresses an allegation of improper State conduct during a recess in A.T.’s testimony. (T.II., 235-237; Bl. Br. 26). Importantly, the trial court found “very credible” the State’s recitation of what occurred during the recess, which was overheard and corroborated by the court reporter and Marshal, rather than Labonte’s assertion that he heard the prosecutor feeding his name to A.T. (*Id.*).

Accordingly, because Labonte failed to adequately develop any argument that the trial court abused its discretion, this Court should decline to address this issue. *See State v. Miller*, 2026 ME 37, ¶ 23 n.10, --- A.3d ---; *State v. Moore*, 2023 ME 18, ¶¶ 19-20, 290 A.3d 533 (declining to address issues not adequately developed in the appellant’s brief).

**B. Alternatively, the trial court did not abuse its discretion regarding the direct examination of A.T., and any perceived error was harmless.**

The decision to permit the use of leading questions during direct examination is subject to the “broad discretion” of the trial judge and therefore reviewed only for an abuse of discretion. *State v. Hansen*, 2020 ME 43, ¶¶ 17, 19, 228 A.3d 1082 (citation omitted). Although generally disfavored, leading questions on direct examination are permissible if “necessary to develop the witness’s testimony.” M.R. Evid. 611(c). Particularly, when the witness is a minor child, “the State is accorded much latitude in attempting to elicit relevant testimony.” *Hansen*, 2020 ME at ¶ 17.

Here, it is certainly understandable why A.T. was “hesitant to testify.” *Id.* at ¶ 20. She was only 12 years old at the time of trial and was called as a State’s witness in the prosecution of her older brother for murder. (T.II., 185-187). Most of the State’s questions regarding what A.T. recalled telling the detectives occurred *after* A.T. had testified that she did not know or did not remember.

(T.II., 200, 202-204, 212-213). The State then promptly brought the questions back to A.T.'s present memory rather than asking her to merely agree with what she recalled telling detectives. (*Id.*). Importantly, the trial court explicitly ruled that Labonte was permitted to correct any of A.T.'s answers to the prosecutor's "do you recall" questions on cross-examination. (T.II., 201-202). Thus, in the circumstances of this case, the trial court's determination of the State's scope of direct examination was not an abuse of discretion.

Finally, any perceived error in the trial court's exercise of its discretion was harmless. A.T., with no reference to what she told detectives, testified that her sister (Tito), Labonte, and Sharif were all inside the apartment when she first left; and, when asked, "[t]hen when you went back in to go get your jacket, who was in the apartment, that you saw," she unequivocally responded, "Lorenze." (T.II., 219). Not only were these answers from A.T. in response to non-leading questions but, as argued below, the record contains substantial evidence of Labonte's guilt that is entirely independent of A.T.'s testimony.

**III. Labonte’s argument that admission of the cellphone records violated his right to confrontation is unpreserved; even if preserved, no constitutional violation occurred; and the trial court did not abuse its discretion by admitting the cellphone records.**

**A. Labonte’s confrontation argument is unpreserved because it was not specifically raised to the trial court.<sup>4</sup>**

“An issue is preserved for appellate review if there is a sufficient basis in the record to alert the trial court and the opposing party to the existence of the issue.” *State v. Reeves*, 2022 ME 10, ¶ 35, 268 A.3d 281. Establishing a sufficient basis requires a timely and specific objection. *United States v. Pires*, 138 F.4th 649, 664 (1st Cir. 2025). Thus, “[t]he 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.” *Id.* at 665 (citation omitted). Otherwise, this Court, like any appellate court, would be “view[ing] the trial judge’s evidentiary rulings through a new and different lens.” *Id.* (citation omitted).

At the motion hearing, Labonte did not specifically raise an objection to the cellphone records based on the Sixth Amendment’s Confrontation Clause.<sup>5</sup> (MIL Tr. 11-19). Instead, his specifically articulated objections were

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<sup>4</sup> Labonte has not raised this issue pursuant to the Maine Constitution and thus this Court must “confine [its] review to [his] argument under the federal constitution.” *Miller*, 2026 ME at ¶ 10, n.9.

<sup>5</sup> The Sixth Amendment to the United States Constitution provides several trial rights to a criminal defendant, including the right “to be confronted with the witnesses against him.” U.S. Const. amend. VI.

authenticity (M.R. Evid. 902(11)) and hearsay (M.R. Evid. 803(6)). (*Id.* at 13-15). While he did reference his ability to cross-examine certain persons about “how these records are generated” and “if it’s a complete record,” (*Id.*), these references were insufficient to preserve the confrontation issue he now raises on appeal. *Reeves*, 2022 ME at ¶ 36; *Pires*, 138 F.4th at 664-666.

The record demonstrates that neither the trial court nor the State were “alert[ed] ... to the existence of the [confrontation] issue.” *Reeves*, 2022 ME at ¶ 35. The State’s motion in limine, argument at the motion hearing, and the trial court’s initial order all addressed only the specifically raised issues of authenticity and hearsay. (A. 22-30; MIL Tr. 11-19; order dated June 10, 2025). The State’s motion to reconsider and the trial court’s order on reconsideration, again, only addressed the issues of authenticity and hearsay. (A. 44-45; State’s motion dated June 17, 2025). Furthermore, Labonte asserted no additional grounds in support of his objection at trial. (T.IV., 120, 134-135).

Accordingly, Labonte’s argument that admission of the cellphone records violated his Sixth Amendment right to confrontation is unpreserved and, if reviewed, may be reviewed “only for obvious error.” *Reeves*, 2022 ME at ¶ 35.

**B. The trial court committed no error, much less obvious error, by admitting the cellphone records because such records do not implicate the right to confrontation.**

“Obvious error is present if an error is plain, affected substantial rights, and seriously affected the fairness and integrity or public reputation of judicial proceedings.” *Reeves*, 2022 ME at ¶ 37 (quotation marks, alterations, and citation omitted). An error is only “plain” if it “is so clear under current law that the trial judge and prosecutor were derelict in countenancing it.” *Id.*

The Confrontation Clause of the Sixth Amendment only bars admission of statements that constitute testimonial hearsay. *State v. Thomas*, 2025 ME 34, ¶ 51, 334 A.3d 686. A statement is “testimonial” if “the primary purpose of the statement is to establish or prove a fact to be used later in trial.” *Id.* at ¶ 62. Regardless of whether business records later become relevant at a trial, they “are ‘generally admissible absent confrontation ... because—having been created for the administration of an entity’s affairs and not for the purpose of establishing or proving some fact at a trial—they are not testimonial.’ ” *State v. Abdi*, 2015 ME 23, ¶ 25, 112 A.3d 360 (quoting *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 324 (2009)).

The cellphone records at issue in this case were created by Verizon, an independent business. Verizon creates these types of records “for the administration of [their business] affairs and not for the [primary] purpose of

establishing or proving some fact at trial.” *Id.* In other words, the primary purpose of these records is focused on Verizon’s independent business operation, “rather than for use at a trial.” *Id.* at ¶ 26.

Moreover, Labonte also seemingly concedes that these records constitute machine-generated data. (Bl. Br. 28 (“[The certificates] simply regurgitated that the person printed out the records that were in the system.”)). Machine-generated data is “exempt from the purview of the Confrontation Clause.” *Thomas*, 2025 ME at ¶ 63, n.30 (citation omitted). Thus, the admission of machine-generated cellphone records, created by and for the cellphone carrier’s business purposes, does not implicate the Sixth Amendment’s Confrontation Clause.

Accordingly, the trial court’s admission of these records constitutes no error, much less obvious error.

**C. The trial court did not abuse its discretion by finding that the cellphone records were properly authenticated and thus admissible.**

This Court “review[s] a trial court’s foundational findings to support admissibility for clear error and its ultimate determination of admissibility for an abuse of discretion.” *Abdi*, 2015 ME at ¶ 16.

The records of a domestic business “require no extrinsic evidence of authenticity in order to be admitted.” M.R. Evid. 902(11). Instead, all that is

required is a certification from the custodian that the records “meet the requirements of Rule 803(6)(A)-(C),” and that the adverse party be given notice and an “opportunity to object to the authenticity of the record or on the basis of hearsay.” *Id.*

Maine Rule of Evidence 803(6) provides that the custodian must certify that: “(A) The record was made at or near the time by – or from information transmitted by – someone with knowledge; (B) The record was kept in the course of a regularly conducted activity of a business, [and] (C) Making the record was a regular practice of that [business] activity.”

The crux of Labonte’s argument confuses the evidentiary distinction between admissibility and weight. (Bl. Br. 28). The admissibility of the cellphone records does not require that the “records be perfect in form.” *Abdi*, 2015 ME at ¶ 20. Instead, whether the cellphone records were reliable “is distinct from the determination of admissibility,” and is a question entirely within “the province of the [jury] as the fact-finder” to answer. *Id.*

Thus, contrary to Labonte’s contentions, the trial court did not abuse its discretion by finding that the cellphone records were admissible. *Id.* The face of the updated certificates submitted by the State with its motion to reconsider demonstrate that they complied M.R. Evid. 803(6) and 902(11). Indeed, the

certificates contained more “certifying” information than is required by M.R. Evid. 803(6)(A)-(C).<sup>6</sup>

Accordingly, the trial court did not clearly err or abuse its discretion by admitting the cellphone records.

#### **IV. The evidence was sufficient to sustain Labonte’s murder conviction.**

When reviewing an assertion that the evidence is insufficient to sustain a criminal conviction, this Court views the evidence “in the light most favorable to the [State]” to determine whether “any trier of fact rationally could find beyond a reasonable doubt every element of the offense charged.” *Ardolino*, 1997 ME at ¶ 20 (citation omitted).

A person is guilty of murder if the person “intentionally or knowingly causes the death of another human being.” 17-A M.R.S. § 201(1)(A) (2023). Assessing all of the evidence in the light most favorable to the State, the jury rationally determined that the State had proven beyond a reasonable doubt that Labonte intentionally or knowingly caused the death of Sharif. In particular, the following evidence, as articulated in the “Statement of Facts”

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<sup>6</sup> The State maintains that the trial court’s initial order citing the lack of case-specific information as the basis for denying the State’s motion in limine was an erroneous expansion of the Rules of Evidence. (A. 22-30). Neither M.R. Evid. 803(6)(A)-(C) nor 902(11) mandate the inclusion of criminal case specific information in a certificate of authenticity as a prerequisite to admissibility. Nonetheless, recognizing the court’s broad discretion, the State does not press this argument further.

with citations to the record, was highly probative in establishing Labonte's guilt:

1. Digital evidence established that, on the day of the murder, Labonte was angry that Sharif was at the State Street apartment.
2. Digital evidence and testimony that shortly after learning Sharif's whereabouts, Labonte contacted Jewett and Mitchell for an "emergency" ride to the State Street apartment.
3. Testimony that Labonte exited his Temple Street apartment clothed in all black, including a mask that covered his entire head.
4. Testimony that Labonte sat in the rear passenger seat of Jewett's vehicle, surveillance video capturing Jewett's vehicle arriving at the State Street apartment and a person dressed in all black exiting the rear passenger seat.
5. Video surveillance captured the same person who exited Jewett's vehicle entering the apartment through Tito's bedroom window.
6. A.T. testified that Labonte asked her to leave the apartment because he was going to argue with Tito and, when she finally left, the only occupants of the apartment were Tito, Sharif, and Labonte.
7. Video surveillance captured the same person, clad in all black and a mask, leaving the apartment and reentering the rear passenger seat of Jewett's vehicle, only minutes after A.T. had left the apartment.
8. Testimony and digital evidence established that four minutes later, police arrived at the State Street apartment, found Tito and Sharif in the back bedroom; Tito was heard on the body camera telling police that a "little short dude" in a mask had come into the apartment and shot Sharif; police observed a gunshot wound to Sharif's torso; based on the clothes Tito was wearing, she could not have concealed a firearm on her person.

9. Testimony established that a single, fired .45 caliber casing was found in the same bedroom as Sharif's body, but a firearm was never located in the apartment.
10. Testimony that, after leaving the apartment, Labonte said he needed to get out of the area, requested to be driven to Massachusetts, stated "I hit him with a 45," and discussed selling a firearm; that Labonte was observed by Mitchell in possession of a firearm once they arrived in Massachusetts.
11. Labonte's recorded statements that "everyone ha[d] told on [him]."
12. Digital location evidence corroborating the testimonial evidence of Jewett and Mitchell that they drove Labonte to Massachusetts and then returned to Maine.

Viewing this evidence in the proper light, the jury rationally found Labonte guilty of intentional or knowing murder because he, in fact, deliberately shot and killed Sharif.

Labonte contends that the evidence is insufficient because no one testified to witnessing the shooting, the murder weapon was not found in his possession, and he never confessed to shooting Sharif. (Bl. Br. 29). However, the State is not required to "present direct evidence as to the defendant's *exact* actions in committing the crime," and a conviction can be "based solely on circumstantial evidence." *State v. Brown*, 2017 ME 59, ¶ 9, 158 A.3d 501 (emphasis original). As articulated above, the record contains more than enough evidence establishing Labonte's guilt beyond a reasonable doubt.

Similarly, Labonte's contentions that inconsistencies in witness testimony and the testimony of Dr. Funte render the evidence insufficient are unpersuasive for two reasons. (Bl. Br. 29-30). First, the determination of witness credibility, the resolution of any "conflicting testimony," and the "relative weight" of the evidence were exclusively the role of the jury. *Ardolino*, 1997 ME at ¶ 20. This Court does "not substitute [its] judgment for that of the jury" on these issues. *State v. Gove*, 379 A.2d 152, 153 (Me.1977).

Second, Maine law proscribes no minimum time for which a person must have a "conscious object to cause [death]," or be "aware that it is practically certain that [his] conduct will cause [death]." 17-A M.R.S. § 35(1)(A), (2)(A) (2023). Instead, the only requirement is that one of these alternatives "exist before the act." *State v. Dumas*, 2010 ME 57, ¶ 25, 997 A.2d 760. Aiming a firearm at the upper body of another human being and pulling the trigger at close range, coupled with Labonte's statements and actions before and after the shooting, clearly demonstrate a conscious object to cause death, or an awareness that the other human being is practically certain to die as a result of doing so.

Accordingly, because the evidence sufficiently supports the jury's conclusion that Labonte was guilty of murder beyond a reasonable doubt, this Court must affirm.

**V. The sentencing court committed no obvious error in imposing Labonte's sentence.**

Finally, Labonte challenges his sentence, arguing that the court erred in setting both his basic and maximum sentence for his conviction for murder. (Bl. Br. 30-32). Because these claims are raised for the first time on appeal, this Court will review “only for obvious error [and] will vacate [Labonte’s] sentence only if the alleged impropriety is obvious and worked a manifest injustice on [him].” *State v. Coleman*, 2024 ME 35, ¶ 24, 315 A.3d 698 (quotation marks and citation omitted).

The standard for “factual findings for sentencing purposes [is] a preponderance of the evidence,” *State v. De St. Croix*, 2020 ME 142, ¶ 11, 243 A.3d 880; and a sentencing court “is not limited to those facts found at trial.” *State v. Rosario*, 2022 ME 46, ¶ 38, 280 A.3d 199.<sup>7</sup> As articulated above, the record contains sufficient evidence demonstrating, by at least a preponderance, the existence of premeditation-in-fact. Thus, the sentencing court’s legal error that it could not make the factual finding of premeditation-in-fact because it had not “been proven beyond a reasonable doubt,” inured to the benefit of Labonte. (Sentencing Transcript, 74 [S. Tr. \_\_]).

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<sup>7</sup> In imposing sentence for a murder conviction, 17-A M.R.S. § 1602(1) (2023) requires courts to follow a two-step process. In step one, the sentencing court “determine[s] a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the individual.” 17-A M.R.S. § 1602(1)(A) (2023).

Nevertheless, because courts have “wide discretion,” *Rosario*, 2022 ME at ¶ 38, when imposing a sentence, this Court need not conclude that the above error warrants vacatur. Although Labonte contends that his conduct was on “the lowest level of seriousness,” several objective factors demonstrate the opposite. (Bl. Br. 32). Those factors include his intentional decision to go to the State Street apartment wearing a mask; his illegal possession and use of a firearm to kill Sharif; his shooting of Sharf while his 10-year-old sister was still close to the apartment; and his immediate flight to Massachusetts. (S. Tr. 72-74).<sup>8</sup>

Thus, any error in the sentencing court’s imposition of a 40-year basic sentence benefited Labonte, as it would have been well within the court’s discretion to impose, as requested by the State, a basic sentence of life based on the existence of premeditation-in-fact.

The sentencing court also did not obviously err in its weighing of the aggravating and mitigating factors in step two.<sup>9</sup> Labonte’s contention is no more than a disagreement with the sentencing court on the weight attributed

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<sup>8</sup> See *State v. Waterman*, 2010 ME 45, ¶¶ 25, 45-46, 995 A.2d 243 (objective factors elevating the seriousness of a basic sentence include the illegal possession of a firearm used to commit a murder and the proximity of children to a murder scene).

<sup>9</sup> After setting the basic sentence in step one, a sentencing court then “determine[s] the maximum term of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to the case ... includ[ing] ... the effect of the offense on the victim.” 17-A M.R.S. § 1602(1)(B) (2023).

to his childhood and the history provided in the mitigation report. (Bl. Br. 32). The Law Court has repeatedly declined to vacate sentences merely because a sentencing court disagreed with a defendant about the weight assigned a particular factor. *De St. Croix*, 2020 ME at ¶ 16; *State v. Lord*, 2019 ME 82, ¶¶ 36-37, 208 A.3d 781; *State v. Schofield*, 2006 ME 101, ¶ 15, 904 A.2d 409; *State v. Shortsleeves*, 580 A.2d 145, 150-151 (Me. 1990).

Furthermore, as articulated by the sentencing court, this case involved several significant aggravating factors, including Labonte's racial and ethnic "prejudice and malice toward[s]" Sharif; multiple prior convictions for violent crimes; two Class C convictions for violent crimes "mere months" before he shot and killed Sharif; the violations of the "no contact" orders "during the pendency of this case;" and Labonte's lack of remorse "immediately after the verdict," as demonstrated by his own words, where the court found "to be astonishing in the vileness of them, the disrespect associated with them, [and] the hate associated with them." (S. Tr. 75-76).

Accordingly, the sentencing court did not commit obvious error, sufficient to vacate Labonte's sentence.

## **CONCLUSION**

For the foregoing reasons, Labonte's conviction and sentence should be affirmed.

Respectfully submitted

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Dated: June 4, 2026

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**CERTIFICATE OF SERVICE**

I, Katie Sibley, Assistant Attorney General, certify that I have emailed a copy of the foregoing “BRIEF OF APPELLEE” to Labonte’s attorney of record, Verne E. Paradie, Jr., Esq.

Dated: June 4, 2026

/s/ KATIE SIBLEY

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