

Supreme Judicial Court sitting as the Law Court
Law Court Docket number ARO-26-13

State of Maine v. Scout D. Sylvester

Appeal from Unified Criminal Docket in
Aroostook County

Brief for Appellant

Jeremy Pratt, Esq.
Ellen Simmons, Esq.
Attorneys for Scout D. Sylvester
Pratt & Simmons, P. A.
P.O. Box 335
Camden, ME 04843
(207) 236-0020
jeremy@midcoastlaw.com
ellen@midcoastlaw.com

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Introduction

The trial court made a number of errors in instructing the jury in Mr. Sylvester's case on concurrent causation, inferred intent, and the elements of Count 2, Operating a Snowmobile Under the Influence, that, when taken individually or as a whole, amount to reversible error. Additionally, the trial court abused its discretion when conducting voir dire; it failed to make a proper inquiry of Potential Juror Number 6, a Jehovah's Witness, through an individual voir dire to determine whether bias or impartiality actually existed before dismissal of the juror. The record also does not contain sufficient information on which to base a partiality determination, and the trial court's partiality finding was therefore in clear error.

Procedural History

Scout Sylvester, the appellant, was indicted on May 12, 2023 on one count of Manslaughter (Class A), under Title 17-A M.R.S. § 203(1)(A)¹; one count of Operating a Snowmobile Under the Influence (Class C), under Title 12 M.R.S. §

¹ Title 17-A M.R.S. § 203(1)(A) states that "[a] person is guilty of manslaughter if that person. . . [r]ecklessly, or with criminal negligence, causes the death of another human being. Violation of this paragraph is a Class A crime."

10701(1-A)(C)(3)²; one count of Reckless Operation of a Snowmobile (Class D), under Title 12 M.R.S. § 13106-A(9)³; and one count of Reckless Conduct, under Title 17-A M.R.S. § 211(1)⁴. (App. at 3). An arraignment was held on June 22, 2023 and Mr. Sylvester entered not guilty pleas to the charges. (App. at 5); (Arr. T. (June 22, 2026) at 4-6).

Mr. Sylvester filed a number of motions in limine on October 23, 2025 and a hearing on these motions was held on October 31, 2025. (App. at 10).

Jury selection occurred on November 3, 2025. (App. at 11). A four day jury trial followed on November 4th, 5th, 6th, and 7th of 2025. (App. at 11-12). At the close of the State's evidence Mr. Sylvester made a motion for a judgment of acquittal. (App. at 12). The motion was denied by the trial court. (App. at 12). On

² Title 12 M.R.S. § 10701(1-A)(C)(3) provides “[p]rohibitions against hunting and operating under the influence [] as follows. . . [a] person may not operate or attempt to operate a snowmobile: . . . [w]hile under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; . . . [i]f 21 years of age or older, while having 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or. . . [i]f less than 21 years of age, while having an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.” Title 12 M.R.S. § 10701(3)(F) states that “[i]f the State pleads and proves that, while hunting or operating a snowmobile, all-terrain vehicle or watercraft in violation of this section, the defendant in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23, to another person or in fact caused the death of another person, the sentencing class for the offenses in subsection 1-A is Class C. The minimum penalties specified in this subsection apply, unless a longer minimum period otherwise applies.”

³ Title 12 M.R.S. § 13106-A(9) states that “[a] person may not operate a snowmobile in such a way as to recklessly create a substantial risk of serious bodily injury to another person. Violation of this subsection is a Class D crime.”

⁴ Title 17-A M.R.S. § 211(1) states that “[a] person is guilty of reckless conduct if he recklessly creates a substantial risk of serious bodily injury to another person.”

November 7th, the State filed a motion to reconsider the trial court's jury instruction ruling on concurrent causation. (App. at 11). On November 7, 2025, the jury returned a not guilty verdict on Count 1 (Manslaughter) and guilty verdicts on the remaining three counts. (App. at 12).

On December 17, 2025 Mr. Sylvester was sentenced by the Aroostook County Unified Court. (App. at 13-14). On Count 2, the charge of Operating a Snowmobile Under the Influence, the court sentenced Mr. Sylvester to the Department of Corrections for a term of 36 months, with all but six months suspended. (App. at 13). A two year term of probation was imposed. (App. at 13). On Counts 3 and 4 concurrent 120 days sentences were imposed. (App. at 14).

A timely notice of appeal was filed January 5, 2026. (App. at 15).

Statement of Facts

Scout Sylvester and his brother Jack Sylvester traveled to Oxbow, Maine in March 2023 to visit a childhood friend, Hunter Soucy. (Tr. T. (vol. 1) at 104-107, 152). They had planned a weekend snowmobile trip.⁵ (Tr. T. (vol. 1) at 106-107, 153-154). The Sylvesters both rented a Polaris snowmobile from a business in Shin Pond for the day on March 4, 2023. (Tr. T. (vol. 1) at 108, 135-136, 155, 157); (Tr. T. (vol. 2) at 183-184). The three boys started off from Shin Pond at around 7:30 a.m.. (Tr. T. (vol. 1) at 109, 157). After renting the snowmobiles they

⁵ The Sylvester brothers stayed at Oxbow Homestead, a snowmobile lodge run by their friend's family. (Tr. T. (vol. 1) at 107, 153-154, 188-189).

went from Shin Pond back to Oxbow Homestead to refuel. (Tr. T. (vol. 1) at 110). They had no trail plan for the day and were mostly riding on the ITS trail system. (Tr. T. (vol. 1) at 111). They stopped for lunch at an establishment called Dean's. (Tr. T. (vol. 1) at 112-113, 162). They were using marijuana throughout the day.⁶ (Tr. T. (vol. 1) at 113, 157, 160, 180, 188). Jack also had a red backpack on him during the day. (Tr. T. (vol. 1) at 118). Jack and Hunter had consumed some beer during the day and Jack had put a few beers in the red backpack he was carrying

⁶ Jack stated that he had a clear recollection of when they had used marijuana on March 4th, stating that they all three shared a pre-rolled joint when they woke up at 6 a.m. and all three shared another pre-rolled joint at around 10:30 a.m., which was the last time they smoked marijuana. (Tr. T. (vol. 1) at 113-115, 139). The joints were 1/2 gram size and about half the size of a cigarette according to Jack. (Tr. T. (vol. 1) at 115). Jack also stated that he never saw a dab pen on anyone during the day and never saw Scout use one. (Tr. T. (vol. 1) at 115). Hunter stated that Scout used a dab pen and smoked joints during the day. (Tr. T. (vol. 1) at 158). Hunter said the marijuana was first used at around 9 or 9:30 a.m., stating they all smoked the marijuana together, and at each stop would have a quick puff or use the pen. (Tr. T. (vol. 1) at 158, 160). Hunter estimated that this was every couple hours to hour and a half. (Tr. T. (vol. 1) at 160-161). Scout told a game warden at the scene of the March 4th snowmobile crash that he had smoked a couple of joints throughout the day. (Tr. T. (vol. 2) at 157). Scout stated that the first was smoked prior to getting the snowmobiles in Shin Pond and the last was at around noontime, and said a couple meant three. (Tr. T. (vol. 2) at 157-158, 160). Scout stated that he did not drink alcohol and only consumed marijuana. (Tr. T. (vol. 2) at 171-172). Hunter also testified that Bud Light had been brought with them and that at each stop they would have a beer, stating everyone in the group was drinking alcohol. (Tr. T. (vol. 1) at 161-162, 180).

with him.⁷ (Tr. T. (vol. 1) at 118-120, 162-163, 186-188). Jack also stated that Hunter had asked him to purchase beer when they stopped at the Ashland 1 Stop during the day, which he did. (Tr. T. (vol. 1) at 119-121, 162-163, 179); (Tr. T. (vol. 3) at 215-216). From the Ashland 1 Stop, the three boys headed back towards Oxbow. (Tr. T. (vol. 1) at 1120-121). During the day, Hunter was the lead rider with Scout and then Jack following him.⁸ (Tr. T. (vol. 1) at 1121-122, 165). In Oxbow they crossed the path of Darryl and Karen Sittler and a collision occurred. (Tr. T. (vol. 1) at 99, 121-122).

⁷ The red backpack was placed in the woods by Jack after the snowmobile crash because he was scared he would get in trouble because of the beer in the bag and the fact he had just struck someone, and the bag was later recovered by wardens. (Tr. T. (vol. 1) at 133-134, 144, 258-261, 263); (Tr. T. (vol. 2) at 188-191). When the bag was located there were both empty cans and unopened can in the bag. (Tr. T. (vol. 2) at 188-193); (Tr. T. (vol. 3) at 115). He could not recall how much beer was in the bag and stated that it was for later in the day. (Tr. T. (vol. 1) at 119, 134). Jack stated that Scout did not drink beer. (Tr. T. (vol. 1) at 134). Hunter stated that Scout consumed some beer with them. (Tr. T. (vol. 1) at 161-162, 180). Hunter stated that after they got beer from the Ashland 1 Stop they consumed some of it and smoked some more marijuana. (Tr. T. (vol. 1) at 179-180).

⁸ Jack testified that the three boys were single file during the day with Hunter always in the lead because he was familiar with the trails. (Tr. T. (vol. 1) at 123, 165). Jack also stated that if he and Scout changed positions during the day, they stopped their snowmobiles when doing so and were not passing each other throughout the day. (Tr. T. (vol. 1) at 1126-127). Hunter testified that he was always in the lead and that Jack and Scout changed positions a couple times during the day. (Tr. T. (vol. 1) at 165, 182). Jack also stated that on the groomed trails they were typically traveling between 40 to 50 mph. (Tr. T. (vol. 1) at 122-123). Right before the accident Hunter estimated that they were traveling at 35 to 40 mph and that the Sittlers were traveling at a similar speed. (Tr. T. (vol. 1) at 166-168).

Darryl Sittler was visiting Maine on a weekend snowmobile trip with his wife, Karen Sittler.⁹ Both of the Sittlers were riding Ski-Doo snowmobiles. (Tr. T. (vol. 1) at 71); (Tr. T. (vol. 2) at 184. On March 4, 2023 the Sittlers rode their snowmobiles from Caribou to Washburn for breakfast, eating at around 8:30 a.m.. (Tr. T. (vol. 1) at 72-73). They next met up with friends at the Ashland Shell station in order to ride together. (Tr. T. (vol. 1) at 74). However, the Sittlers split off from the group and went to Shin Pond for gas and lunch at around 12:30 p.m.. (Tr. T. (vol. 1) at 76-77). From lunch, they headed back to their hotel, with Ms. Sittler following behind Mr. Sittler. (Tr. T. (vol. 1) at 79-80). As they approached Oxbow, Maine, Mr. Sittler was a good distance in front of Ms. Sittler, she was unable to see his snow dust. (Tr. T. (vol. 1) at 83, 99-100). Ms. Sittler stopped when she saw two men in the middle of the trail and snowmobiles in the trail after a blind hill. (Tr. T. (vol. 1) at 85-86, 99). She then saw her husband lying face down in the trail. (Tr. T. (vol. 1) at 86-87); (Tr. T. (vol. 2) at 12-129). Ms. Sittler did not see the accident happen. (Tr. T. (vol. 1) at 99). She ran to him and called 911 at that point. (Tr. T. (vol. 1) at 87-88, 95, 170). It took about thirty-two minutes for emergency services to arrive. (Tr. T. (vol. 1) at 88, 94). At the scene,

⁹ Mr. Sittler was from Clemsford, Massachusetts. (Tr. T. (vol. 1) at 64). Prior to 2023, he and his wife had been coming to Aroostook County, Maine to snowmobile in the winters for around twenty-five years. (Tr. T. (vol. 1) at 69). They would travel to Aroostook County every two to three weekends and leave at lunch time on Thursday afternoons and return late on Sunday so they could ride snowmobiles in the mornings. (Tr. T. (vol. 1) at 68). During their March 2023 trip they were staying at the Caribou Inn. (Tr. T. (vol. 1) at 69).

one of the three men came over to Ms. Sittler and she noted the smell of marijuana on his person. (Tr. T. (vol. 1) at 89-90). No snowmobiles traveled through the path while they were waiting for emergency services to arrive. (Tr. T. (vol. 1) at 92, 131).

While near Oxbow, Jack Sylvester was following behind his brother by roughly 50 to 100 feet when the collision occurred between Scout's and Darryl Sittler's snowmobiles.¹⁰ (Tr. T. (vol. 1) at 121-123, 139, 165-166). Because there had been over a foot of fresh snow the day prior to March 4th, Jack stated that he saw a giant cloud of snow when his brother crested a hill. (Tr. T. (vol. 1) at 112, 121-122, 124, 140). Jack said Scout was on the right side of the trail. (Tr. T. (vol. 1) at 140). Jack further stated that he then saw a body flying through the air towards him. (Tr. T. (vol. 1) at 125). He testified that he was on the right side of the trail and that the body came flying at him extremely fast and he had zero time to react. (Tr. T. (vol. 1) at 125, 141). Jack locked his brakes, turned left, and struck the body with his snowmobile and was immediately ejected from his snowmobile, landing in the middle of the trail, about 50 feet down the trail.¹¹ (Tr. T. (vol. 1) at 125-126, 140-141, 148). He saw Scout in the woods on the left hand side of the

¹⁰ Hunter Soucy met and passed the Sittlers with no issues. (Tr. T. (vol. 1) at 183-185). He estimated that the crash occurred 100-150 yards from where he saw the Sittlers. (Tr. T. (vol. 1) at 186).

¹¹ He also stated that it was possible that he was on the left side of the trail when he locked his breaks because he tried to avoid the large snow cloud. (Tr. T. (vol. 1) at 126). He saw his snowmobile hit the body again as it rolled down the hill. (Tr. T. (vol. 1) at 142, 147).

trail and believed that he had been ejected as well. (Tr. T. (vol. 1) at 127). Jack did not believe that Scout was hurt but saw a person not moving in the trail.¹² (Tr. T. (vol. 1) at 128). It took a few minutes before Ms. Sittler showed up after the accident had occurred.¹³ (Tr. T. (vol. 1) at 129, 143). Hunter, who was in the lead and had already cleared the area ahead of the Sylvesters, took a few minutes more than Ms. Sittler to reappear, an estimated four minutes after the crash occurred. (Tr. T. (vol. 1) at 130, 169). Upon arrival, Hunter said it was obvious that Mr. Sittler was not alive. (Tr. T. (vol. 1) at 170).

When first responders arrived at the scene of the snowmobile crash, Mr. Sittler was assessed. (Tr. T. (vol. 1) at 224-225, 239-240; 253); (Tr. T. (vol. 2) at 129). First responders noticed ski track marks going up his chest. (Tr. T. (vol. 1) at 225, 226-227, 229). A determination was made shortly after assessment that Mr. Sittler was deceased. (Tr. T. (vol. 1) at 253-254); (Tr. T. (vol. 2) at 129).

Scout made a statement to law enforcement at the crash scene. (Tr. T. (vol. 1) at 243). He stated that he and Mr. Sittler met in the middle of the trail and that he swerved to the left. (Tr. T. (vol. 1) at 243). He also told another game warden that when he came over the hill that Mr. Sittler was in the trail and he swerved but could not avoid contact and that they collided and he had been ejected from the

¹² Jack was not injured. (Tr. T. (vol. 1) at 146). The first arriving officer at the scene stated that he spoke to Scout and did not believe that he was hurt. (Tr. T. (vol. 1) at 248).

¹³ As Ms. Sittler noted, both men were in on their feet in the trail when she arrived on the scene. (Tr. T. (vol. 1) at 85-86, 99).

snowmobile. (Tr. T. (vol. 2) at 133). In Scout's written statement, it is said that Mr. Sittler was partly on Scout's side of the trail as he crested the hill. (Tr. T. (vol. 2) at 197-198, 225). Upon examination of the snowmobiles it was observed that both had damage to their right skis. (Tr. T. (vol. 2) at 142-143); (Tr. T. (vol. 3) at 26, 57, 59). A sled autopsy was done on the snowmobiles. (Tr. T. (vol. 2) at 183-185). A crash reconstructionist was employed as well.¹⁴ (Tr. T. (vol. 3) at 47, 53-55). The reconstructionist concluded that the snowmobiles came together on their right sides, noting that one snowmobile was on the wrong side of the trail, and that the impact was on the righthand side of the trail and that whoever was coming down over the hill was on the wrong side of the trail. (Tr. T. (vol. 3) at 56-59, 79). He further stated that what the warden told him "made sense" and that the accident took place, if you were going up the hill, on the right hand side of the trail.¹⁵ (Tr. T. (vol. 3) at 58, 63). A debris field was also seen on that side of the trail. (Tr. T. (vol. 3) at 62-63, 77-78, 90-91).

¹⁴ The reconstruction was based on baseline coordinates that were used to recreate the scene and FARO scanner data from the next day. (Tr. T. (vol. 2) at 110-111, 245-252, 258, 267-269); (Tr. T. (vol. 3) at 28, 29-30).

¹⁵ The reconstructionist also stated that he became involved in this case almost a year after the crash and that he had not independently visited the scene or conducted interviews and relied on law enforcement, noting "[p]art of any investigation is that you trust and talk to law enforcement officers who were at the scene[;]" and affirming that he "trust[s] every law enforcement officer at a scene that [he] talk[s] to." (Tr. T. (vol. 3) at 74-75). He stated that he relied on law enforcement to tell him which direction the snowmobiles were headed on the trail prior to the crash. (Tr. T. (vol. 3) at 84-85, 87).

A post mortem examination was done on Mr. Sittler on March 5, 2023 at a funeral home in Van Buren. (Tr. T. (vol. 2) at 144); (Tr. T. (vol. 3) at 117-118, 132, 226). Dr. Roger Pelli performed an external autopsy. (Tr. T. (vol. 3) at 222, 230). The cause of death was determined to be a basilar skull fracture and multiple blunt force trauma.¹⁶ (Tr. T. (vol. 3) at 230). The Doctor noted that he would not have expected the basilar skull fracture to have occurred from the impact with Scout's snowmobile, as he was ejected as a result and did not hit that snowmobile.¹⁷ (Tr. T. (vol. 3) at 241-242).

Scout Sylvester was taken to the hospital due to an arm/wrist injury. (Tr. T. (vol. 1) at 229, 254-256, 265-266); (Tr. T. (vol. 2) at 133, 194); (Tr. T. (vol. 3) at 102). First responders that assisted in taking Scout to the hospital saw nothing at

¹⁶ A basilar skull fracture is a fracture or breaking of the skull bone at the base of the skull and neck, where they join. (Tr. T. (vol. 3) at 231). This was accompanied by blood coming from both ear canals, suggesting the presence of such an injury. (Tr. T. (vol. 3) at 232). Mr. Sittler also had a complex fracture to his lower left leg, meaning the bone had come through the skin. (Tr. T. (vol. 3) at 234). With no internal microdissection done, the Doctor could not identify the bleeding pattern observed, but noted that "it was my impression that with a basilar skull fracture and obviously seeing the blood in both ear canals, there's bleeding from that broken bone at the base of the skull; and as that blood increases in a space that can't expand because the brain is inside the skull, it can force the brain down towards the neck. . . And that the respiratory centers and the circulatory centers of control, the nervous system control breathing and your heartbeat, originate in that part of the brain called the brain stem . . . And once that's compressed, it will stop respirations and stop your heart." (Tr. T. (vol. 3) at 237).

¹⁷ The Doctor stated he could not say this for certain, as he did not know if Mr. Sittler hit anything while in the air, prior to contacting Jack's snowmobile. (Tr. T. (vol. 3) at 242).

the time that would have led them to believe that he was under the influence.¹⁸ (Tr. T. (vol. 1) at 230, 266). At the hospital he was assessed by a game warden qualified to administer standardized field sobriety tests, and acknowledged as a drug recognition expert, and the warden's evaluation of Scout determined that he was not impaired at that time.¹⁹ (Tr. T. (vol. 1) at 268, 270-291, 294-295, 317). A blood sample was drawn by law enforcement at the hospital.²⁰ (Tr. T. (vol. 2) at 176-181); (Tr. T. (vol. 3) at 152-153, 158). One of the three standardized field sobriety tests was administered to Scout at the scene of the crash while he sat on a game warden's snowmobile.²¹ (Tr. T. (vol. 2) at 145-148, 155, 161-162, 164, 202). The Horizontal Gaze Nystagmus test was given and the warden observed clues in both eyes. (Tr. T. (vol. 2) at 166-167). Two additional ARIDE tests were administered as well; the lack of convergence test and the modified Romberg test

¹⁸ The officer that administered the impairment testing of Scout at the scene stated that he did not notice him to be unsteady on his feet or have trouble getting on or off the snowmobile he was seated at for the administered tests. (Tr. T. (vol. 2) at 220-221).

¹⁹ Scout's right arm was in a sling for all tests administered at the hospital and in the field. (Tr. T. (vol. 1) at 304); (Tr. T. (vol. 2) at 210-211); (Tr. T. (vol. 3) at 102-104).

²⁰ The blood test taken by law enforcement was entered into evidence at trial. (Tr. T. (vol. 3) at 158, 188, 194-195, 199). The blood tested positive for cannabinoids and Delta-9 THC, the psychoactive part of the marijuana plant. (Tr. T. (vol. 3) at 194-195). The presence of the drug was noted to not be indicative of impairment. (Tr. T. (vol. 3) at 210). The blood draw taken by the hospital during its treatment of Scout was excluded from evidence during the trial. (Tr. T. (vol. 3) at 207-209).

²¹ The smell of marijuana and bloodshot eyes were also observed, but he had been crying at the scene. (Tr. T. (vol. 2) at 156-157); (Tr. T. (vol. 3) at 103). While questioned during direct examination, it was stated that Scout was asked on a scale of 0-10 to say how impaired he felt, he said he was at a 1, on cross it was pointed out the warden actually asked him to place his sobriety on a scale of 1 to 10. (Tr. T. (vol. 2) at 161, 208).

were administered and indicators of impairment were observed by the warden during the tests.²² (Tr. T. (vol. 2) at 149-150, 164, 168-171, 202).

After the State rested, Scout moved for a judgment of acquittal, which was denied. (Tr. T. (vol. 3) at 242, 250, 256-257). The jury was given instruction prior to deliberations by the trial court. (Tr. T. (vol. 4) at 44-66). The trial court ruled that it would give a concurrent causation instruction, finding that the evidence had generated it. (Tr. T. (vol. 3) at 261-262). The State filed a motion to reconsider the court's ruling on the concurrent causation jury instruction. (Tr. T. (vol. 4) at 25). The trial court granted the motion in part, using, verbatim, the State's, requested instruction on causation:

‘Cause’ or ‘causation’ means the result would not have occurred but for the conduct of Mr. Sylvester, operating either alone or concurrently with another cause. When Mr. Sylvester's conduct operated concurrently with other independent actions, events or conditions to cause a particular result, then, to find Mr. Sylvester guilty of the result, the State must prove beyond a reasonable doubt that (1) the result would not have occurred but for Mr. Sylvester's conduct, operating either alone, or concurrently with another independent cause and (2) Mr. Sylvester's conduct was sufficient, by itself, to produce the result.

Other actions, events or conditions are not independent of Mr. Sylvester's conduct if those other actions, events or conditions would not have occurred were it not for Mr. Sylvester's conduct. (App. at 77); (Tr. T. (vol. 4) at 32-33, 54).

The jury received the instruction. (Tr. T. (vol. 4) at 54).

²² It was estimated that all tests were given at around 3:30 p.m., about a half hour after the administering warden arrived at the scene. (Tr. T. (vol. 2) at 172-173).

Additionally, the State requested an instruction on inferred intent and the trial court gave the instruction to the jury over Scout's objection.²³ (Tr. T. (vol. 4) at 7-11, 64). Also, the trial court, in its instructions to the jury, on three occasions, mentioned that it was a violation of the law or that the jury had to determine if "Mr. Sylvester had an alcohol level that was 0.00 grams or more." (Tr. T. (vol. 4) at 56-57).

The jury returned a not guilty verdict on Count 1, manslaughter, and guilty verdicts on the remaining three counts. (Tr. T. (vol. 4) at 126). The trial court sentenced Scout on Count 2 to 36 months, with all but 6 months suspended, and 2 years of probation. (Tr. T. (vol. 4) at 41-42). Concurrent 120 days sentences were imposed on the remaining two counts. (Tr. T. (vol. 4) at 41-42).

During jury selection Juror Number 6 was excused for cause. (J. Sel. T. at 34). The following exchange took place when excusing the potential juror:

THE COURT: All right. Juror Number 6 answered in the questionnaire, I am one of the Jehovah's Witnesses and I do not want to judge another person. Um, hear from either side on Juror Number 6.

MR. HUNTER: I would move to eliminate them for cause.

MR. SWANSON: Your Honor did a general voir dire of everyone in the courtroom asking if there was any reason that they could not be fair and

²³ The instruction stated as follows: "Please bear in mind as you consider the evidence as it relates to the defendant's state of mind, mental state ordinarily cannot be proved directly because there is rarely direct evidence of the operations of the human mind. You may infer state of mind from the surrounding circumstances. You may consider any statement made or any act done or omitted by the person and all other facts in evidence that indicate a state of mind." (Tr. T. (vol. 4) at 64).

impartial in a case or if there was a reason that they could not serve as a juror, and they did not stand.

THE COURT: True.

MR. SWANSON: So, I don't believe that they need to be struck for cause.

THE COURT: All right. Uh, request granted. Juror 6 is out. That's in a private questionnaire. I am concerned that they answered that way and didn't answer consistently in the courtroom. That individual also themselves had been charged with an OUI, um, not that that's a big issue, but not answering the question the same is a problem from the judge's perspective. So, 6 is out.
(Jury Sel. T. at 33-34).

After Mr. Sylvester was sentenced, he filed this timely appeal. (App. at 14).

Issues Presented for Review

- I. Whether the trial court erred in instructing the jury.**
 - A. Whether the jury was instructed correctly on causation.**
 - B. Whether the jury should have been instructed on inferred intent when Mr. Sylvester objected to the instruction.**
 - C. Whether the trial court properly instructed on the elements of Count 2, Operating a Snowmobile Under the Influence.**
 - D. Whether the jury instructions as a whole were prejudicial.**
- II. Whether the trial court properly excluded Potential Juror Number 6 from the jury pool.**
 - A. Whether the trial court abused its discretion in its oversight of jury selection when it excluded Juror Number 6 from the pool without further questioning of the juror.**

B. Whether the trial court's partiality determination about Juror Number 6 was clear error and the potential juror should have remained in the jury pool.

Statement of Issues Presented for Review

Mr. Sylvester asserts that the trial court made a number of errors in instructing the jury. These errors, taken individually or together, amount to reversible error. First, the trial court instructed the jury on concurrent causation using wording requested by the State that did not mirror the wording of the statute, as Mr. Sylvester had requested. This instruction failed to correctly and fairly define concurrent causation for the jury. The trial court added significant language to what is present in Title 17-A M.R.S. § 33, the causation statute, and did so in a way that favored the State. The wording of the jury instruction used by the trial court affected the jury's ability to correctly make a finding of concurrent causation and evaluate Mr. Sylvester's brother's role in the accident and resulting death of Mr. Sittler. Secondly, the trial court gave an inferred intent instruction over Mr. Sylvester's objection. The instruction was not necessary, and was potentially confusing, when the jury received specific instruction on the state of mind relevant to the charges in the case. Thirdly, the trial court did not appropriately state the law when instructing the jury on Count 2 of the indictment. Title 12 M.R.S. § 10701(1-A)(C)(3) requires a finding of a blood alcohol level of "more than 0.00" and the trial court instructed the jury to make a finding of "0.00 grams or more." As worded the jury instructions negates a finding as it does not require proof of any

alcohol level. Lastly, when all the errors outlined are taken together their cumulative effect demonstrates that the jury instructions did not inform the jury correctly and fairly in all necessary respects of the governing law and left the door open for juror misunderstanding.

Additionally, the trial court abused its discretion when it failed to adequately conduct voir dire and ensure that a proper inquiry was made of Potential Juror Number 6. The trial court did not individually voir dire the juror and based its decision to excuse the juror solely on a single response given in the written questionnaire and an answer given to an inquiry of the entire jury pool. Moreover, the fact that potential Juror Number 6 was a Jehovah's Witness appears to be a factor in the trial court's decision. The potential juror's individual views on jury duty should have been further explored when a challenge was made to the juror, particularly when this juror indicated in open court that he could be fair and impartial. The trial court also erred in its partiality determination when it excused Potential Juror Number 6, the trial court needed to examine the juror further to establish whether the juror was capable of setting aside any area of potential bias and whether he was capable of reaching a verdict based on the evidence and the law. As such, the record does not provide the necessary information upon which to make a partiality determination. The trial court's finding of partiality and excusal of Potential Juror Number 6 for cause was done in error. The limited and conflicting record cannot support such a finding.

Argument

I. The trial court erred in instructing the jury.

Jury instructions are reviewed “‘as a whole for prejudicial error, and to ensure that they informed the jury correctly and fairly in all necessary respects of the governing law[,]’” and “consider[ing] the effect of the instruction as a whole and the potential for juror misunderstanding. . . .”²⁴ State v. Hanscom, 2016 ME 184, ¶ 10, 152 A.3d 632, 635 (Me. 2016)(citation omitted); State v. Gauthier, 2007 ME 156, ¶ 14, 939 A.2d 77, 81 (Me. 2007)(citations omitted).

“When a party challenging the court's instruction has preserved his or her objection at trial, [this Court] will vacate the [trial] court’s judgment only if the erroneous instruction resulted in prejudice.” Caruso v. Jackson Lab., 2014 ME 101, ¶ 12, 98 A.3d 221, 226 (Me. 2014); see also State v. Sapiel, 432 A.2d 1262, 1270 (Me. 1981).

Additionally, a “‘jury instruction that 'creates the possibility of jury confusion and a verdict based on impermissible criteria' is erroneous . . . [and s]uch an error is harmless only if the court believes it highly probable that it did not affect the

²⁴ This Court has noted that issues are preserved for appeal if the general thrust of the argument is found in the record: “[w]e instead treat Lester's argument as preserved because the general contours of the argument as framed before us were presented to the trial court. See State v. Jandreau, 2022 ME 59, ¶ 22, 288 A.3d 371 (‘An issue is raised and preserved if there was a sufficient basis in the record to alert the court and any opposing party to the existence of that issue.’ (quotation marks omitted)).” State v. Lester, 2025 ME 21, fn.3, 331 A.3d 426, fn. 3 (Me. 2025).

verdict.” State v. Soule, 2001 ME 42, ¶ 8, 767 A.2d 316, 319 (Me. 2001)(citation and quotations omitted).

Unpreserved errors are reviewed by this Court for obvious error.²⁵ See State v. Brine, 1998 ME 191, ¶ 13, 716 A.2d 208, 212 (Me. 1998); State v. Thomes, 1997 ME 146, ¶ 7, 697 A.2d 1262, 1264 (Me. 1997); State v. Bedrin, 634 A.2d 1290, 1292 (Me. 1993); State v. Shackelford, 634 A.2d 1292, 1295 (Me. 1993); State v. Naoum, 548 A.2d 120, 125 (Me. 1988); State v. Franklin, 478 A.2d 1107, 1110 (Me. 1984); M.R.U. Crim. P. 52(b).

The trial court made a number of errors in instructing the jury in Mr. Sylvester’s case on concurrent causation, inferred intent, and the elements of Count 2, Operating a Snowmobile Under the Influence, that, when taken individually or as a whole, amount to reversible error. Two issues²⁶ were preserved for review by

²⁵ “The test for establishing obvious error has been concisely stated to include a showing, by the defendant, of “(1) an error, (2) that is plain, and (3) that affects substantial rights. . . [e]ven if these three conditions are met. . . a jury’s verdict [is] only [set aside] if. . . (4) the error seriously affects the fairness and integrity or public reputation of judicial proceedings.” State v. Dolloff, 2012 ME 130, ¶ 35, 58 A.3d 1032, 1043 (Me. 2012)(internal citations and quotations omitted).

²⁶ The trial court originally found that it would instruct on concurrent causation and then, after a motion to reconsider filed by the State, the trial court used requested language by the State in instruction the jury. (Tr. T. (vol. 3) at 261-262); (Tr. T. (vol. 4) at 25). Mr. Sylvester asserts that the trial counsel’s opposition to the State’s motion to reconsider preserves his objection to the wording of the concurrent causation instruction given to the jury by the trial court. The trial court noted that paragraph 2 of the causation instruction was a point of conflict between the parties. (Tr. T. (vol. 4) at 26). Mr. Sylvester wanted the instruction given “as the law reads” and that noted that it should be given “to the jury as the Legislature has given it to us.” (Tr. T. (vol. 4) at 27, 29). On the issue of inferred intent, Mr. Sylvester requested that the instruction not be given and the trial court gave the instruction over his objection. (Tr. T. (vol. 4) at 7-11, 64).

trial counsel and one, the instruction on the elements of Count 2, Operating a Snowmobile Under the Influence, was not.

A. The jury was incorrectly instructed on causation.

The trial court in Mr. Sylvester's case instructed the jury on concurrent causation, but did not use the wording of the statute, as Mr. Sylvester had requested.²⁷ (Tr. T. (vol. 3) at 261-262); (Tr. T. (vol. 4) at 25, 27, 29, 54). The trial court instead partially granted the State's motion to reconsider and used differing language requested by the State. (Tr. T. (vol. 4) at 32). In doing so, the trial court failed to correctly and fairly define concurrent causation for the jury.

Title 17-A M.R.S. § 33 defines causation, stating:

1. Unless otherwise provided, when causing a result is an element of a crime, causation may be found when the result would not have occurred but for the conduct of the defendant, operating either alone or concurrently with another cause.
2. In cases in which concurrent causation is generated as an issue, the defendant's conduct must also have been sufficient by itself to produce the result.

The trial court instructed the jury using, verbatim, the State's requested instruction on causation:

Cause or causation means the result would not have occurred but for the conduct of Mr. Sylvester operating either alone or concurrently with another cause. When Mr. Sylvester's conduct operated concurrently with other **independent** actions, events, or conditions to cause a particular result, then to find Mr. Sylvester

²⁷ The concurrent causation instruction was given as part of the court's instructions on Count 2 of the Indictment. (Tr. T. (vol. 4) at 54, 58).

guilty of the result, the State must prove beyond a reasonable doubt that, one, the result would not have occurred but for Mr. Sylvester's conduct operating either alone or concurrently with another **independent** cause; and, two, Mr. Sylvester's conduct was sufficient by itself to produce the result. **Other actions, events, or conditions are not independent in Mr. Sylvester's conduct if those other actions, events, or conditions would not have occurred were it not for Mr. Sylvester's conduct.**²⁸
(Tr. T. (vol. 4) at 54)(emphasis added).

When deciding to use the language requested by the State, the trial court stated:

THE COURT: So, I'll take it in two parts because there's the primary request and then there's the alternative request -- . . . -- in the motion. Unlike some motions to reconsider, um, I view this as a little bit different in terms of the availability of a request because the instructions hadn't been finalized. We're still discussing it. So, I will entertain the motion. The cases that were cited in the motion, um, related to the -- what was claimed to be the other concurrent cause are a little different than this. McLean, the fact he didn't have a helmet on didn't cause his death. Allen, chest compressions done, based on the evidence at the trial, didn't cause the internal injuries resulting in death. Athayde, the prior or other medical conditions also not cause of death. In this one, it's a little different. It's a -- there's some evidence, um, to suggest that the cause of death may have been that second, um, impact. Um, however, looking at the way the

²⁸ The State's requested instruction, in its motion to reconsider, mirrors the one given by the trial court: "'Cause' or 'causation' means the result would not have occurred but for the conduct of Mr. Sylvester, operating either alone or concurrently with another cause. When Mr. Sylvester's conduct operated concurrently with other independent actions, events or conditions to cause a particular result, then, to find Mr. Sylvester guilty of the result, the State must prove beyond a reasonable doubt that (1) the result would not have occurred but for Mr. Sylvester's conduct, operating either alone, or concurrently with another independent cause and (2) Mr. Sylvester's conduct was sufficient, by itself, to produce the result. Other actions, events or conditions are not independent of Mr. Sylvester's conduct if those other actions, events or conditions would not have occurred were it not for Mr. Sylvester's conduct.'" (Tr. T. (vol. 4) at 54); (App. at 77).

Legislature has it concurrently with another cause, another defined as different, additional, separate. So, the Court is persuaded that providing the jury with the information that it's another independent action, event, and that the other action, event are not independent if they wouldn't have occurred but for his conduct. The pushing in front of the train, um, is a -- is -- I understand how that may fit in. I still think it's a factual issue. I may be wrong on that, but that's the way I see it. So, I will be giving the instruction. **The motion to reconsider is granted only to the extent that the Court views that another cause, um, another independent, separate, additional, and I'll use the word independent; and so that's the way that they are going to be.**

(Tr. T. (vol. 4) at 30-32)(emphasis added).

This Court has stated that

‘A trial court has wide discretion in formulating its instructions to the jury so long as it accurately and coherently reflects the applicable law.’ State v. Martin, 2007 ME 23, ¶ 6, 916 A.2d 961.

‘When jury instructions closely parallel the provisions of the Maine Criminal Code, they are adequate to provide the jury with the necessary information.’ State v. Mann, 2005 ME 25, ¶ 13, 868 A.2d 183.

State v. Hopkins, 2018 ME 100, ¶ 46, 189 A.3d 741, 755 (Me. 2018).

“[F]ailure to instruct the jury properly on an essential element of the offense affect[s]” a defendant’s substantial rights.” State v. Hider, 649 A.2d 14, 16 (Me. 1994)(analyzing the claim under an obvious error standard).

In State v. Hopkins, 2018 ME 100, ¶ 48, 189 A.3d 741, 755 (Me. 2018), this Court found that the concurrent causation instruction of the trial court in that case was a “slightly different instruction” but that it “mirror[ed] the ‘clearly insufficient’ statutory language” contained in the statute at that time. As such, the instruction

was deemed “adequate to provide the jury the necessary information about the elements of concurrent causation.” State v. Hopkins, 2018 ME 100, ¶ 48, 189 A.3d 741, 755 (Me. 2018). In State v. McLean, 2002 ME 171, ¶ 18, 815 A.2d 799, 805-806 (Me. 2002), this Court found that “[i]n instructing the jury, the trial court closely followed the language of section thirty-three. Moreover, the instruction given is very similar in substance to the instruction requested by [the defendant]. See Clewley, 2002 ME 61, ¶ 8, 794 A.2d at 90.”

The current version of Title 17-A M.R.S. § 33 was enacted as part of emergency Legislation “to correct errors in the definitions of ‘cocaine’ and ‘heroin’ in the controlled substances laws” in relation to the ruling in State v. Pinkham, 2016 ME 59, 137 A.3d 203 (Me. 2016). See 128th LD 1091 (H.P. 765). The Legislative Digest of Bill Summaries and Enacted Laws for the Act states that

Part C does the following: 1. Rearranges into 2 subsections the content of Title 17-A, section 33. Subsection 1 contains the content of the current section 33, except that it deletes the words ‘unless the concurrent cause was clearly sufficient to produce the result and the conduct of the defendant was clearly insufficient.’ Subsection 2 contains a simplified test to be applied in the event concurrent causation is generated as an issue. It provides that, when a defendant's conduct may have operated concurrently with another cause, in addition to satisfying the 'but for' test the defendant's conduct.

L.D. 1091. Summary at 42 (128th Legis. 2017).

When addressing this new statute this Court has noted that

‘Unless otherwise provided, when causing a result is an

element of a crime, causation may be found when the result would not have occurred but for the conduct of the defendant, operating either alone or concurrently with another cause.’ 17-A M.R.S. § 33(1)(2018). ‘In cases in which concurrent causation is generated as an issue, the defendant’s conduct must also have been sufficient by itself to produce the result.’ *Id.* § 33(2). As the Legislature summarized, the relatively recent addition of subsection 2 was to provide ‘a simplified test to be applied in the event concurrent causation is generated as an issue. It provides that, when a defendant’s conduct may have operated concurrently with another cause, in addition to satisfying the ‘but for’ test the defendant’s conduct must have been sufficient by itself to produce the result’ L.D. 1091, Summary, at 8 (128th Legis. 2017); see *State v. Limary*, 2020 ME 83, ¶ 31 n.6, 235 A.3d 860.” *State v. Athayde*, 2022 ME 41, ¶ 47, 277 A.3d 387, 400 (Me. 2002); see also *State v. Limary*, 2020 ME 83, 235 A.3d 860, fn. 6 (Me. 2020)²⁹.

Section 33 provides a clear statement of the law. In fact, as noted, the statute was recently reworked to provide clear guidance on how the elements of concurrent causation needs to be established. By adding additional terminology to the causation instruction given to the jury, the instruction failed to present the

²⁹ This Court further noted that there was no statutory authority on causation until “the adoption of the Maine Criminal Code in the mid-1970s. See P.L. 1975, ch. 499, § 1 (effective Mar. 1, 1976) (codified at 17-A M.R.S.A. § 56 (1979)). As the bill’s comment reveals, the new statutory language was taken from a proposed Massachusetts Code and based on the proposed Federal Criminal Code. L.D. 314, § 1, cmt. to 17-A M.R.S.A. § 56 (107th Legis. 1975). The federal drafters specifically noted that ‘[t]he major problem in enunciating such rules is presented by situations in which two or more factors ‘cause’ the result.’ Nat’l Comm’n on Reform of Fed. Criminal Laws, Final Report 32 (1971). The section was proposed as ‘a modified ‘but for’ test with a proviso that excludes those situations in which the concurrent cause was clearly sufficient to produce the result and the accused’s conduct clearly insufficient. . . . ‘But for’ is a minimal requirement for guilt; and resolving that question permits focusing on the more important issue of culpability as to the result caused.’ *Id.*” *State v. Limary*, 2020 ME 83, 235 A.3d 860, fn. 7 (Me. 2020).

element as it was intended by the Legislature and unfairly favored the State's duty to establish the element beyond a reasonable doubt.

As also noted above, in State v. Hopkins, 2018 ME 100, ¶ 48, 189 A.3d 741, 755 (Me. 2018) and State v. McLean, 2002 ME 171, ¶ 18, 815 A.2d 799, 805-806 (Me. 2002), this Court took no issue with the concurrent causation instruction when it closely mirrored the statute. Such a close parroting is not present in Mr. Sylvester's case. Here, the trial court added significant language to what is present in Section 33 and did so in a way that favored the State.³⁰ The trial court inserted the word "independent" twice into the definition. This term is not found in the statute and adds a descriptive concept not present in the statute itself. Section 33 requires only a finding of "operating either alone or concurrently with another cause." There is no requirement of a finding of independent action. Additionally, the trial court instructed the jury that "[o]ther actions, events, or conditions are not independent in Mr. Sylvester's conduct if those other actions, events, or conditions would not have occurred were it not for Mr. Sylvester's conduct." This sentence adds instruction that is not contained within Section 33. It interferes with the jury's ability to correctly make a finding of concurrent causation. It inhibits Mr. Sylvester's concurrent causation argument and interferes with his ability to argue

³⁰ The State focused in great detail on the concept of concurrent causation, and what it meant, in its closing remarks to the jury, using and mimicking what was stated in trial court's jury instruction when it focused on the term "independent" repeatedly. (Tr. T. (vol. 4) at 67, 78-81, 109-110).

that Mr. Sittler's collision with his brother's snowmobile was the cause of death.³¹

As written, the concurrent causation instruction might as well not have been given because it is damaging to Mr. Sylvester's argument and case, giving the impression that causation fully turns on Mr. Sylvester's actions and not its interrelationship with concurrent causes. Such wording invites the potential for juror misunderstanding, is favorable to the State, and prejudicial to Mr. Sylvester. As such, it does not correctly and fairly define concurrent causation for the jury.

B. The jury should not have been instructed on inferred intent when Mr. Sylvester objected to the instruction.

The State requested an instruction on inferred intent and the trial court gave the instruction to the jury over Mr. Sylvester's objection.³² (Tr. T. (vol. 4) at 7-11, 64). This definition was something that did not need to be included in the instructions. The concept was sufficiently present in the instructions.

This Court has previously guided that

‘A trial court has wide discretion in formulating its instructions to the jury so long as it accurately and coherently reflects the applicable

³¹ The Doctor conducting the partial autopsy noted that he would not have expected the basilar skull fracture to have occurred from Mr. Sittler's impact with Scout's snowmobile, as he was ejected as a result and did not hit that snowmobile. (Tr. T. (vol. 3) at 241-242). The Doctor did however note that he could not say this for certain, as he did not know if Mr. Sittler hit anything while in the air, prior to contacting Jack's snowmobile. (Tr. T. (vol. 3) at 242).

³² The instruction stated as follows: “Please bear in mind as you consider the evidence as it relates to the defendant's state of mind, mental state ordinarily cannot be proved directly because there is rarely direct evidence of the operations of the human mind. You may infer state of mind from the surrounding circumstances. You may consider any statement made or any act done or omitted by the person and all other facts in evidence that indicate a state of mind.” (Tr. T. (vol. 4) at 64).

law.’ Id. at 107. A requested jury instruction is appropriately given when it: ‘(1) states the law correctly; (2) is generated by the evidence in the case; (3) is not misleading or confusing; and (4) is not otherwise sufficiently covered in the court's instructions.’ Clewley v. Whitney, 2002 ME 61, ¶ 8, 794 A.2d 87, 90.’
State v. Martin, 2007 ME 23, ¶ 6, 916 A.2d 961, 964 (Me. 2007).

The inferred intent instruction did not need to be given. The trial court gave very specific and detailed instruction about the state of mind elements present in the case. (Tr. T. (vol. 4) at 54-55). All the essential elements of the crimes necessary for the jury to render a verdict were present in the trial court’s instructions. The instructions were sufficient to instruct the jury.

As such, the inferred intent instruction was not necessary for the jury to reach a verdict and all concepts for factual findings by the jury were sufficiently covered in the trial court’s instructions. Additionally, the concept may have been confusing or misleading for the jury when they were instructed specifically on elements of state of mind. These factors suggest that points 3 and 4, outlined above, in the test for giving a jury instruction, worked in favor of excluding the instruction, as requested by Mr. Sylvester. Therefore, upon his request, the jury instruction should have been omitted by the trial court.

C. The trial court did not properly instruct on the elements of Count 2, Operating a Snowmobile Under the Influence.

The trial court did not appropriately state the law when instructing the jury on Count 2 of the indictment. The way in which the jury was instructed

erroneously states the finding that needs to be made in regards to Mr. Sylvester's alcohol level.

Under Title 12 M.R.S. § 10701(1-A)(C)(3) provides for

[p]rohibitions against hunting and operating under the influence [] as follows. . . [a] person may not operate or attempt to operate a snowmobile: . . . [w]hile under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; . . . [i]f 21 years of age or older, while having 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or. . . **[i]f less than 21 years of age, while having an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.** (emphasis added).

The trial court, in its instructions to the jury, on three occasions, mentioned that it was a violation of the law or that the jury had to determine if "Mr. Sylvester had an alcohol level that was 0.00 grams or more." (Tr. T. (vol. 4) at 56-57).

Title 12 M.R.S. § 10701(1-A)(C)(3) requires a finding of "more than 0.00" not, as the trial court has instructed, of "0.00 grams or more." As worded, the jury instruction negates the required finding because it does not require proof of any alcohol consumption, as no alcohol in one's system would satisfy the required element. As such, the trial court has improperly instructed the jury on an element of the crime. The instruction is confusing and the possibility exists that the instruction lead the jury to an improper finding in reaching its verdict.

D. The jury instructions as a whole were prejudicial.

When all the errors outlined are taken together their cumulative effect demonstrates that the jury instructions did not inform the jury "correctly and fairly

in all necessary respects of the governing law[,]” and left the door open for “juror misunderstanding.” State v. Hanscom, 2016 ME 184, ¶ 10, 152 A.3d 632, 635 (Me. 2016)(citation omitted); State v. Gauthier, 2007 ME 156, ¶ 14, 939 A.2d 77, 81 (Me. 2007)(citations omitted).

The jury instructions need to be overall “adequate to inform the jury of their roles and the governing law”. State v. Knox, 2003 ME 39, ¶ 9, 819 A.2d 1011, 1014 (Me. 2003). When reviewed as a whole, these instructions fail to do that and are not able to adequately inform on the governing law. And, “when reviewed with the charge[s] as a whole constitute[] highly prejudicial error tending to produce manifest injustice.” State v. Weidul, 628 A.2d 135, 137 (Me. 1993).

As such, the errors together resulted in instructions that favored the State, to Mr. Sylvester’s detriment, and misstated the law. Mr. Sylvester was prejudiced by the instructions, particularly when viewed as a whole, and his verdicts should not stand.

II. The trial court improperly excluded Potential Juror Number 6 from the jury pool.

The conduct of voir dire is reviewed by this Court for an abuse of discretion. See State v. Carey, 2019 ME 131, ¶ 14, 214 A.3d 488, 493 (Me. 2019); State v. Holland, 2009 ME 72, ¶ 49, 976 A.2d 227, 241 (Me. 2009); State v. Lowry, 2003 ME 38, ¶ 7, 819 A.2d 331, 333 (Me. 2003). A challenge to the partiality of a juror is reviewed for clear error. See State v. Holland, 2009 ME 72, ¶ 49, 976 A.2d 227,

241 (Me. 2009); State v. Rollins, 2008 ME 189, ¶ 11, 961 A.2d 546, 549 (Me. 2008).

Mr. Sylvester has “an absolute right” to receive a fair jury selection process. See State v. Townes, 2019 ME 81, ¶ 17, 208 A.3d 774, 779 (Me. 2019); Rosales-Lopez v. United States, 451 U.S. 182, 188, 101 S. Ct. 1629, 1634, 68 L. Ed. 2d 22, 28 (1981). The Sixth Amendment, made applicable to the individual states by the Fourteenth Amendment, provides: “[i]n all criminal prosecutions, the accused shall enjoy the right to a ... trial[] by an impartial jury...” U.S. Const. amend. VI.³³ See also State v. Carey, 2019 ME 131, ¶ 13, 214 A.3d 488, 492-493 (Me. 2019)(“[t]he United States Constitution guarantees the right of an accused ‘to a speedy and public trial, by an impartial jury.’ U.S. Const. amend. VI. . . ; see also Me. Const. art. I, § 6 (guaranteeing the right to a ‘speedy, public and impartial trial’ . . .). The Due Process Clause also guarantees this right. See U.S. Const. amend. XIV, § 1; Morgan v. Illinois, 504 U.S. 719, 727, 112 S. Ct. 2222, 119 L. Ed. 2d 492 (1992); see also Me. Const. art. I, § 6-A.”).

The United States Supreme Court has noted the importance of ensuring that potential jurors are adequately examined during voir dire to establish bias when being considered as a potential juror in a case:

As with any other trial situation where an adversary wishes to exclude a juror because of bias, then, it is the adversary seeking

³³ “The right to an impartial jury is guaranteed all criminal defendants by the Sixth Amendment of the United States Constitution and by Article I, section 6 of our own Constitution of Maine.” State v. Thibeault, 390 A.2d 1095, 1098 (Me. 1978)(internal citation omitted).

exclusion who must demonstrate, through questioning, that the potential juror lacks impartiality. See Reynolds v. United States, 98 U.S. 145, 157 (1879). It is then the trial judge's duty to determine whether the challenge is proper. This is, of course, the standard and procedure outlined in Adams, but it is equally true of any situation where a party seeks to exclude a biased juror. See, e.g., Patton v. Yount, 467 U.S. 1025, 1036 (1984)(where a criminal defendant sought to excuse a juror for cause and the trial judge refused, the question was simply ‘did [the] juror swear that he could set aside any opinion he might hold and decide the case on the evidence, and should the juror's protestations of impartiality have been believed’).
Wainwright v. Witt, 469 U.S. 412, 423-424, 105 S. Ct. 844, 852, 83 L. Ed. 2d 841, 851 (1985).

The Supreme Court has further noted that “[v]oir dire plays a critical function in assuring the criminal defendant that his Sixth Amendment right to an impartial jury will be honored.” Rosales-Lopez v. United States, 451 U.S. 182, 188, 101 S. Ct. 1629, 1634, 68 L. Ed. 2d 22, 28 (1981).

When the impartiality of a juror is in question, the Court needs to engage in an examination of the juror to establish whether the juror is capable of setting aside an area of potential bias “to participate in reaching a verdict based on the evidence and the law.” State v. Holland, 2009 ME 72, ¶ 53, 976 A.2d 227, 242 (Me. 2009) (internal quotations and citations omitted).

“‘The impartiality of a juror is not a technical concept. . . but **a state of mind** for which there is no ‘ancient and artificial’ test. Irvin v. Dowd, 366 U.S. 717, 724-25, 81 S.Ct. 1639, 1643-44, 6 L.Ed.2d 751 (1961)(quoting United States

v. Wood, 299 U.S. 123, 145-46, 57 S.Ct. 177, 185, 81 L.Ed. 78 (1936)).” State v. Libby, 485 A.2d 627, 629 (Me. 1984)(emphasis added).

Additionally, this Court has found that “[b]ecause of the constitutional rights at stake, however, if. . . [this Court] discern[s] an error that affects the right to an impartial adjudicator, that error cannot be regarded as harmless.” State v. Carey, 2019 ME 131, ¶ 16, 214 A.3d 488, 493 (Me. 2019)(citations omitted).

The trial court in Mr. Sylvester’s case violated these tenets. It failed to adequately conduct voir dire and ensure that a proper inquiry was made of Potential Juror Number 6. While deference is given to the trial court as to whether a juror is able to be impartial, this is because it involves “credibility findings whose basis cannot be easily discerned from an appellate record.” State v. Carey, 2019 ME 131, ¶ 15, 214 A.3d 488, 493 (Me. 2019)(citation omitted). There was limited interactions with Juror Number 6 in Mr. Sylvester’s case. The trial court did not individually voir dire the juror and based its decision to excuse the juror solely on a single response given in the written questionnaire and an answer given in open court to an inquiry made of the entire jury pool. (Jury Sel. T. at 33-34). There was no ability for the trial court to make a meaningful credibility finding and the trial court had little more than is present in this appellate record to use in making its decision.

During jury selection, when Juror Number 6 was excused for cause, the following exchange took place when excusing the potential juror:

THE COURT: All right. Juror Number 6 answered in the questionnaire, I am one of the Jehovah's Witnesses and I do not want to judge another person. Um, hear from either side on Juror Number 6.

MR. HUNTER: I would move to eliminate them for cause.

MR. SWANSON: Your Honor did a general voir dire of everyone in the courtroom asking if there was any reason that they could not be fair and impartial in a case or if there was a reason that they could not serve as a juror, and they did not stand.

THE COURT: True.

MR. SWANSON: So, I don't believe that they need to be struck for cause.

THE COURT: All right. Uh, request granted. Juror 6 is out. That's in a private questionnaire. I am concerned that they answered that way and didn't answer consistently in the courtroom. That individual also themselves had been charged with an OUI, um, not that that's a big issue, but not answering the question the same is a problem from the judge's perspective. So, 6 is out.
(Jury Sel. T. at 33-34).

Due to Mr. Sylvester's objection to the dismissal of Potential Juror Number 6 for cause the trial court had a duty to conduct further inquiry of the juror and based on the information before the court, its impartiality determination cannot stand.

A. The trial court abused its discretion in its oversight of jury selection when it excluded Juror Number 6 from the pool without further questioning of the juror.

The trial court abused its discretion in excusing Potential Juror Number 6 for cause. The trial court failed to conduct an adequate inquiry of the juror. Based on

Mr. Sylvester's objection to the dismissal of Juror Number 6, the trial court had a duty to examine the juror further to determine whether bias or impartiality actually existed and that determination cannot be made with the conflicting evidence presented in the record.

This Court has highlighted that “[q]uestioning during voir dire must be sufficient to disclose facts that would reveal juror bias. See State v. Stoddard, 1997 ME 114, ¶¶ 8-9, 696 A.2d 423, 426-27.” State v. Lowry, 2003 ME 38, ¶ 11, 819 A.2d 331, 334 (Me. 2003); see also State v. Nigro, 2011 ME 81, ¶ 15, 24 A.3d 1283, 1288 (Me. 2011). And, further, in Lowry, this Court held that “[i]n the instant case, the decision as to whether a juror could be impartial was for the trial court, not the prospective juror, to make, and the court could not make an informed decision based on the limited information available to it.” State v. Lowry, 2003 ME 38, ¶ 11, 819 A.2d 331, 334 (Me. 2003).³⁴ When these standards are applied to Mr. Sylvester's case it is clear that the trial court abused its discretion by not conducting an individual voir dire of Potential Juror Number 6. The trial court was required to make further inquiry of the juror.

³⁴ A South Carolina Court has set out a test for “trial court's disqualification of a prospective juror[, which] will not be disturbed where there is a reasonable basis from which the trial court could have concluded that the juror would not have been able to faithfully discharge his responsibilities as a juror under the law. State v. Green, 301 S.C. 347, 392 S.E.2d 157 (1990); State v. Gaskins, 284 S.C. 105, 326 S.E.2d 132 (1985); State v. Linder, 276 S.C. 304, 278 S.E.2d 335 (1981).” State v. Tucker, 334 S.C. 1, ¶ 11, 512 S.E.2d 99, 104 (1999). And a California court had noted that while religion may support a challenge for cause, it linked the reason to a showing that a juror's religious beliefs would not allow him to sit as a juror.” See People v. Rountree, 56 Cal. 4th 823, 847, 157 Cal. Rptr. 3d 1, 24, 301 P.3d 150, 169 (2013).

Here, the trial court has failed in its duty to adequately question Potential Juror Number 6. As noted, when the impartiality of a juror is in question, the trial court should engage in an examination of the juror to establish whether the juror is capable of setting aside an area of potential bias “to participate in reaching a verdict based on the evidence and the law.”³⁵ State v. Holland, 2009 ME 72, ¶ 53, 976 A.2d 227, 242 (Me. 2009)(internal quotations and citations omitted). No such examination occurred here.

This Court has stated that

if the impartiality of a potential juror has been brought into question, a trial court should interview the prospective juror ‘to determine whether he or she can remain impartial.’ Durant, 2004 ME 136, ¶ 15, 861 A.2d 637. The questions that a court chooses to ask during voir dire must be sufficient to elicit any facts that would reveal juror bias so that the court can make an informed decision. State v. Lowry, 2003 ME 38, ¶ 11, 819 A.2d 331. There is, however, no ‘hard-and-fast formula’ that dictates exactly what questions the individual voir dire must include. Skilling, 561 U.S. at 386. The trial court has ‘[c]onsiderable discretion over the conduct and scope of juror voir dire’ and must balance “the competing considerations of fairness to the defendant, judicial economy, and avoidance of embarrassment to potential jurors.’ State v. Woodburn, 559 A.2d 343, 344 (Me. 1989). State v. Carey, 2019 ME 131, ¶ 19, 214 A.3d 488, 494 (Me. 2019).

³⁵ This Court noted: “[w]hen a juror's impartiality is questioned, the court should interview the juror to determine whether it is satisfied with the juror's ability to set aside whatever impressions or opinions the juror had of the witness and to participate in reaching a verdict based on the evidence and the law.’ Id. ¶ 12, 961 A.2d at 549 (quotation marks and alteration omitted); Lowry, 2003 ME 38, ¶¶ 4, 9, 819 A.2d at 333, 334 (stating that a trial court must conduct or permit further questioning concerning potential jurors' possible partiality in order to provide an adequate factual basis to rule on a challenge of those jurors for cause in a case in which the court denied the defendant's repeated requests for additional voir dire and her challenges for cause).” State v. Holland, 2009 ME 72, ¶ 53, 976 A.2d 227, 242 (Me. 2009).

The trial court here, if there is a question about the impartiality of a juror, had a duty to conduct an individual voir dire to address its concern about the conflicting answers that had been given by the juror. cf. State v. Carey, 2019 ME 131, ¶ 23, 214 A.3d 488, 495 (Me. 2019). To that point, the trial court did follow up with another juror when it found conflicting responses.³⁶ (Jury Sel. T. at 67-68). The failure to make such an inquiry of Potential Juror Number 6 was an abuse of the trial court's discretion. Moreover, the determination that Potential Juror Number 6 could not sit on the jury, from the contents of the record, seems to hinge on the fact that the Potential Juror was a Jehovah's Witness, basing his exclusion on his religious affiliation. That fact alone should not be used as a basis to exclude a juror.

In a Nevada case, a Jehovah Witness was individually voir dired and told the court that participation in jury duty "just depends on what you individually believe. We can't tell another, a Jehovah's Witness that they can't serve on the jury duty. It's up to that individual to decide on their own whether or not they want to serve on the jury." State v. Watson, 2024 Nev. Dist. LEXIS 844, 30 (8th Dist. Ct. Nev.

³⁶ Juror 120 had "[o]n the questionnaire, [] state[d] that they'd be unable to sit for a long period of time without extreme leg pain and back pain." (Jury Sel. T. at 67). The trial court then during voir dire noted that "[o]n one of our questionnaires, we asked jurors to indicate whether sitting for a three- to five-day trial would be a hardship for them; and you didn't indicate that it would, so I'm following up on that as to whether you believe you'd be able to serve as a juror on a multiple day trial or whether your physical health might create difficulty for you in that regard." (Jury Sel. T. at 68). The conflicting answers given by this juror did not warrant the same immediate exclusion from the jury pool.

2024). In a Kansas case, a judge told a prospective juror that ““I think what you're saying - you're contradicting yourself about what you're saying, and we have had Jehovah's witnesses that do sit on juries.” State v. Gaither, 283 Kan. 671, 678, 156 P.3d 602, 608 (Kan. 2007). In Texas, a Jehovah Witness told the court that “she could serve, but would be unable to ‘swear to God.’” Mapps v. Dir., Tex. Dep't of Crim. Just.-Corr. Insts. Div., 2022 U.S. Dist. LEXIS 110717 at 11-12 (E.D. Tex. May 16, 2022)(“[t]he option of allowing her to affirm her intentions to render a verdict based solely upon the evidence and the law was discussed[,]” research was conducted, and she was told to report for the trial). And, in California, during jury selection, a Jehovah Witness stated, in relation to their religion, that ““I don't believe [it would.] I believe I can fairly and impartially consider whatever testimony and evidence would be presented and make a judgment based on that, regardless of background and my involvement.”” Ali v. Hickman, 571 F.3d 902, 921 (9th Cir. 2009).

The trial court needed to conduct a further inquiry of Potential Juror Number 6. What is contained in the transcript is not enough to base its decision upon. The record strongly suggests that one of the key facts in the potential juror’s dismissal was the fact that he was a Jehovah’s witness. The potential juror’s individual views on jury duty should have been further explored when a challenge was made to the juror- particularly since he did indicate in open court that he could be fair

and impartial. (Jury Sel. T. at 33-34). The manner in which the court conducted voir dire was an abuse of discretion.

B. The trial court's partiality determination about Juror Number 6 was clear error and the potential juror should have remained in the jury pool.

The record does not contain sufficient information on which to base a partiality determination, and the trial court's finding was also clear error. The information before the trial court was limited and conflicting, providing insufficient information to make a determination as to Potential Juror Number 6's impartiality.

"The Sixth Amendment guarantees every criminal defendant the absolute right to a fair trial by an impartial jury." State v. Townes, 2019 ME 81, ¶ 17, 208 A.3d 774, 779-780 (Me. 2019). This Court has noted that

To help ensure the right to a fair and impartial jury, 15 M.R.S. § 1259 (2007) provides that each party is entitled to use challenges for cause during jury empanelment. See Libby, 485 A.2d at 629 & n.3. When considering whether to grant a party's challenge for cause, '[t]he determination of existence of prejudice is for the trial court to make.' State v. Thibeault, 390 A.2d 1095, 1099-1100 (Me. 1978). State v. Rollins, 2008 ME 189, ¶ 16, 961 A.2d 546, 550 (Me. 2008).

However, such a determination cannot be made in this case on the information before the court and the trial court's partiality ruling is in error.

As noted above, the record here contains information that the potential juror is a member of the Jehovah's Witnesses, from which stemmed a desire not to judge other people, and an indication in open court that he could be fair and impartial.

(Jury Sel. T. at 33-34). The fact that the trial court made a finding on the limited and conflicting information provided by Potential Juror Number 6 is clear error. There is not enough information to base a determination. This Court has noted that “[t]he impartiality of a juror is not a technical concept. . . but **a state of mind** for which there is no ‘ancient and artificial’ test. Irvin v. Dowd, 366 U.S. 717, 724-25, 81 S.Ct. 1639, 1643-44, 6 L.Ed.2d 751 (1961)(quoting United States v. Wood, 299 U.S. 123, 145-46, 57 S.Ct. 177, 185, 81 L.Ed. 78 (1936)).” State v. Libby, 485 A.2d 627, 629 (Me. 1984)(emphasis added). Potential Juror Number 6’s state of mind could not be determined by the trial court based on the information contained within the record before this Court.

Furthermore, when the impartiality of a juror is in question, the Court needs to engage in an examination of the juror to establish whether the juror is capable of setting aside an area of potential bias “to participate in reaching a verdict based on the evidence and the law.” State v. Holland, 2009 ME 72, ¶ 53, 976 A.2d 227, 242 (Me. 2009)(internal quotations and citations omitted). See Section IIA. Such an examination did not occur here and it was clear error for the trial court to make a finding of impartiality when no such inquiry had taken place.

As such, the record does not provide the necessary information upon which to make a partiality determination. The trial court’s finding of partiality and excusal of Potential Juror Number 6 for cause was done in error. The limited and conflicting record cannot support such a finding.

Conclusion

For the above-reasons, the Appellant asks this Court to vacate his convictions and remand his case to the Aroostook County Courts for further proceedings.

Dated: May 27, 2026

/s/ Jeremy Pratt
Jeremy Pratt, Esquire
Attorney for Scout Sylvester
Pratt & Simmons, P. A.
P.O. Box 335
Camden, Maine 04843
(207) 236-0020
Bar Registration No. 9966

/s/ Ellen Simmons
Ellen Simmons, Esquire
Attorney for Scout Sylvester
Pratt & Simmons, P. A.
P.O. Box 335
Camden, Maine 04843
(207) 236-0020
Bar Registration No. 9967

Certificate of Service

I, Jeremy Pratt, Esquire, hereby certify that on this date I sent by electronic mail one copy of the foregoing Brief of Appellant, later to be followed by one printed copy, via the U. S. Postal service, to, Matthew Hunter, Esq., Office of the District Attorney, 27 Riverside Drive, Presque Isle, ME 04769.

Dated: May 27, 2026

/s/ Jeremy Pratt
Jeremy Pratt, Esquire