

STATE OF MAINE  
AROOSTOOK, ss.

SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT  
DOCKET: ARO-26-13

STATE OF MAINE  
APPELLEE

v.

SCOUT SYLVESTER  
APPELLANT

ON APPEAL FROM UNIFIED CRIMINAL COURT, AROOSTOOK  
COUNTY

**\*\*BRIEF OF APPELLEE \*\***

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## INTRODUCTION

The trial court made two errors in its jury instructions. The first, instructing the jury on concurrent causation when the issue had not been generated, related to Counts 1, 3, and 4. The second, misstating the specific blood alcohol content element of operating a snowmobile under the influence, related only to Count 2 and is unpreserved. Neither error is a basis to reverse the jury's verdict because neither prejudiced Scout.

Scout drove his snowmobile head-on into a snowmobile operated by the victim, Darryl Sittler. Upon impact, Darryl was ejected from his snowmobile and before even hitting the ground, Darryl was struck by another snowmobile driven by Jack following behind Scout. Darryl was killed in the crash. Those two impacts were not concurrent causes of Darryl's death and injuries as a matter of law and it was an error to provide the concurrent causation instruction. Although the instruction should not have been given, the trial court's instruction that concurrent causes are independent causes and articulation of when causes are independent of one another were correct statements of law. Scout was not prejudiced when he obtained a correct instruction on concurrent causation that he was never entitled to.

The trial court's instruction to the jury that it could convict Scout of operating a snowmobile under the influence if it found that Scout's blood alcohol content was "0.00 grams or more per 100 milliliters of blood of 210 liters or breath" was a

misstatement of the applicable law. That misstatement did not affect Scout's substantial rights and did not affect the fairness and integrity of the proceedings. There was no evidence introduced of Scout's specific blood alcohol content let alone evidence that it was "0.00 grams" "per 100 milliliters of blood of 210 liters or breath" Because there was no evidence that Scout's blood alcohol content was "0.00 grams" "per 100 milliliters of blood of 210 liters or breath", there is no risk the jury convicted Scout for having "per 100 milliliters of blood of 210 liters or breath."

The trial court did not err when it excluded Juror 6 for cause. Juror 6 had indicated on the written juror questionnaire that, because of their religious beliefs, they did not want to judge another person. At the conclusion of the jury selection process, Scout indicated he was satisfied with the jury that was selected, waiving any objections he may have had to the jury's composition. Independent of that waiver, the juror's expression on the questionnaire that they did not want to perform an essential juror function was a valid basis to excuse that juror for cause.

### **STATEMENT OF THE RELEVANT CASE PROCEDURE**

On May 11, 2023, Scout was indicted for (1) Manslaughter (17-A MRSA §203(1)(A)); (2) Operating a Snowmobile Under the Influence (12 MRSA 10701(1-A)(C)); (3) Reckless Operation of a Snowmobile (12 MRSA 13106-A(9)); and (4) Reckless Conduct (17-A MRSA 211(1)). (A 45-46) A jury was selected on November 3, 2025. (A 11) A jury trial was held over November 4, 5, 6, and 7, 2025.

(A 11) At the conclusion of trial of the trial, the jury acquitted Scout of Manslaughter and convicted Scout of all of the other offenses. (A. 12) On December 17, 2025, Scout was sentenced to 36 months in the Department of Corrections, with all but 6 months suspended, followed by 2 years of probation on Count 2 and concurrent 120-day sentences on Counts 3 and 4. (A 13-14)

### **STATEMENT OF THE RELEVANT FACTS**

Karen and Darryl Sittler (hereafter, Karen and Darryl, respectively) traveled to Caribou, Maine, to snowmobile during the weekend that included March 4, 2023. (1 TR 70) They were snowmobiling as part of a larger group of people over the course of a weekend. (1 TR 70) On March 4, 2023, the Sittlers left the larger group of snowmobilers and proceeded on their own to the Shin Pond area. (1 TR 72-77) The Sittlers stopped for lunch at approximately 12:30. (1 TR 77) After lunch, the Sittlers were returning to their hotel in Caribou. (1 TR 79-80) Karen was traveling behind Darryl and watched Darryl crest a hill and go out of her sight. (1 TR 82) After Darryl went out of sight, Karen saw another snowmobile “shoot” over the top of that hill. (1 TR 82) Once Karen crested the hill, she saw two men standing in the trail and another snowmobiler in the middle of the trail. (1 TR 85) Karen eventually recognized Darryl as the person laying in the middle of the trail. (1 TR 86) Karen observed Darryl lying face down with apparent injuries. (1 TR 87) Darryl was dead. (1 TR 170)

The two men who had been standing in the trail were Scout and Jack Sylvester (hereafter Scout and Jack respectively). (1 TR 153-54) The Sylvesters had been snowmobiling in Aroostook County with their friend Hunter Soucy (hereafter Hunter). (1 TR 154) The Sylvesters were visiting Hunter for the weekend and had rented snowmobiles. (1 TR 155) The three men began their day in Shin Pond and had been riding north on ITS 85. (1 TR 155-56) The men were riding in a single file most of the day with Hunter in front, followed by Scout, who was then followed by Jack. (1 TR 165-66) As Scout was cresting the hill, Scout collided head-on with Darryl's snowmobile. (2 TR 133) As a result of the collision, Darryl was ejected from his snowmobile into the front of Jack's snowmobile as Jack was traveling up the trail behind Scout. (1 TR 124-25) The final resting point of the snowmobiles, debris field resulting from the crash, and imprints in the snow established that the crash occurred within what would be Darryl's travel lane within the trail and established Scout was operating on the wrong side of the trail. (3 TR 58-62)

Game Warden's and emergency medical technicians responded to the scene of the crash to render aid and investigate. (1 TR 94) Those game wardens documented the crash scene, gathered evidence, and interviewed Scout, Jack, Hunter, and Karen. (2 TR 133,242, 3 TR 110-11) Scout, Jack, and Hunter had been using marijuana and drinking beer throughout the day leading up to the crash. (1 TR 157-61) Scout admitted to game warden investigators that he had used marijuana

but denied alcohol use. (2 TR 171-72) Scout smelled of marijuana. (2 TR 156) Scout submitted to field sobriety testing at the request of law enforcement while at the crash scene and the results of that testing suggested Scout was impaired by alcohol and marijuana. (2 TR 166-71) Scout consented to a blood draw, which was analyzed and determined to contain marijuana metabolites. (3 TR 176-77, 194-95) Several days after the crash, wardens recovered a backpack that Jack had been carrying and that had been hidden close to the crash scene. (1 TR 118, 133-34) The backpack contained empty beer cans, full beer cans, and marijuana debris. (2 TR 115-16)

## **ISSUES**

- I. Whether the trial court committed a reversible error when instructing the jury.
- II. Whether the trial court committed a reversible error when it excluded Juror 6.

## **ARGUMENT**

- I. The trial court did not commit a reversible error when instructing the jury.**

### **A. Concurrent Causation Instruction**

A preserved objection to jury instructions is reviewed for “prejudicial error.” *State v. Lester*, 2025 ME 21, ¶ 11. “To determine whether there is an error in jury instructions, we evaluate the instructions in their entirety and will consider the total effect created by all the instructions and the potential for juror misunderstanding,

and whether the instructions informed the jury correctly and fairly in all necessary respects of the governing law.” *State v. Chase*, 2023 ME 32, ¶ 13 (Citations and quotation marks omitted). “Prejudice occurs when an erroneous instruction on a particular point of law affects the jury's verdict, or alternatively, when the instruction was so plainly wrong and the point involved so vital that the verdict must have been based upon a misconception of the law.” *State v. Hansley*, 2019 ME 35, ¶ 8.

### **1. Concurrent causation was not generated as an issue.**

The issue of concurrent causation was not generated by the evidence and the trial court erred when it instructed the jury on concurrent causation. The concurrent causation statute provides:

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.

17-A M.R.S.A. § 33. A defendant’s entitlement to a concurrent causation instruction arises only when there is a “rational basis for the jury to conclude that the death resulted from any cause independent of the injuries inflicted by the defendant.” *State v. Allen*, 606 A.2d 778, 780 (Me. 1992). A second intervening cause is not a concurrent cause as a matter of law when the intervening cause is “the natural result of the wrongful act.” *State v. Hachey*, 278 A.2d 397, 401 (Me. 1971).

Scout's snowmobile collided head-on with the victim's snowmobile, resulting in the victim's ejection from his snowmobile and a head-on collision with Jack's snowmobile. (1 TR 124-25) The decision in *State v. Peaslee*, 571 A.2d 825 (Me. 1990), is dispositive as to whether Scout and his brother were the concurrent causes of the victim's death. They were not. The facts of *Peaslee* are brief:

As a result of Peaslee's deliberate fishtailing on the snow-packed, icy road, the car went out of control and overturned, throwing Dawson onto the road. Because of the seriousness of his injuries, Dawson was unable to move himself and was not moved by others. A second car ran over Dawson several minutes later after Dawson's brother, Gordon, tried unsuccessfully to stop the car. Dawson died at the scene.

*State v. Peaslee*, 571 A.2d at p. 826. The *Peaslee* trial court provided a concurrent causation instruction and Peaslee argued the instruction was erroneous. *Id.* at 827. The Law Court held that "section 33 was inapplicable because the separate accidents were not independent of each other." *Id.* "[T]he causes were not independent because [the victim] would not have been lying immobile on the road in the path of the other car were it not for Peaslee's conduct." *Id.* Independence between the two causes is essential for concurrent causation and the Law Court emphasized this point when it distinguished the circumstances of *Peaslee* from the holdings of several other cases based entirely upon the independence of the causes of death in those cases. "*State v. Snow*, 464 A.2d 958 (Me.1983) and *State v. Crocker*, 431 A.2d 1323 (Me.1981), are distinguishable on the ground that in each of these cases the two causes were independent of each other. In *Snow* the two causes were recklessly

inflicted injury and pre-existing physical condition. In Crocker they were physical beatings and malnutrition.” *State v. Peaslee*, 571 A.2d at p. 827.

An instruction on concurrent causation is not appropriate *as a matter of law* unless the causes are independent causes. *State v. Peaslee*, 571 A.2d at p. 827. Causes are not independent causes when one cause would not have happened “were it not for” the other. *Id.* Because Scout was criminally responsible for the victim’s death and injuries regardless of whether the impact with Scout’s snowmobile or impact with his brother’s snowmobile (or both), the inclusion of the instruction was an error, however, that error did not deprive Scout of a fair trial. *Id.*

**2. The concurrent causation instruction provided was an accurate and coherent statement of the applicable law.**

It was an error for the trial court to provide a concurrent causation instruction because concurrent causation was not generated by the evidence, but that error was harmless to Scout. *State v. Peaslee*, 571 A.2d at p. 827. Although erroneously provided, the instruction was a correct statement of the law. Concurrent causes must be independent causes as a matter of law. *Id.* Causes are not independent causes when one cause would not have happened “were it not for” the other. *Id.* Mr. Sittler would not have been ejected from his snowmobile “were it not for” Scout driving into him and Mr. Sittler would not have been struck by Jack “were it not for” being

ejected from his snowmobile. As a matter of law, Jack was not a concurrent cause of Mr. Sittler's death or injuries. *Id.*

Jury instructions are not required to “mirror” or “parrot” statutory language, but rather must “accurately and coherently reflect[ ] the applicable law.” *State v. Martin*, 2007 ME 23, ¶ 6. “A court need not confine its instructions to the exact language of the criminal code, particularly when an additional explanation to the jury may ‘prevent misunderstanding of the legal principles involved.’” *State v. Michaud*, 611 A.2d 61, 64 (Me. 1992) (Quoting *State v. Foster*, 405 A.2d 726, 729 (Me. 1979)). When instructing on concurrent causation, the language “should be modified as appropriate to the facts of each case where concurrent causation is an issue . . .” See Alexander, *Maine Jury Instruction Manual* § 6-50 at 6-78 & comment (2023 ed.).<sup>1</sup> The instructional language regarding independence, both the requirement of independence and how independence is determined, was a correct statement of law and the trial court included it to “prevent misunderstanding of the legal principles involved.”

## **B. Inferred Intent Instruction**

Several of the indicted offenses have a culpable state of mind element, either reckless or criminal negligence. (A. 45-46) Recklessness is defined as:

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<sup>1</sup> “Such an instruction may not be appropriate when a second injury or event is not independent of the defendant’s conduct.” Alexander, *Maine Jury Instruction Manual* § 6-50 at 6-78 & comment (2023 ed.).

**A.** A person acts recklessly with respect to a result of the person's conduct when the person consciously disregards a risk that the person's conduct will cause such a result.

**B.** A person acts recklessly with respect to attendant circumstances when the person consciously disregards a risk that such circumstances exist.

**C.** For purposes of this subsection, the disregard of the risk, when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

17-A M.R.S.A. § 35(3). In order to demonstrate recklessness, the prosecution needed to prove the “conscious disregard” of a risk. “By definition, ‘conscious disregard’ is a Subjective state of mind.” *State v. Goodall*, 407 A.2d 268, 280 (Me. 1979). “The factfinder may infer the defendant's state of mind from his objective conduct.” *State v. Taylor*, 661 A.2d 665, 668 (Me. 1995). Because jurors were permitted to infer Scout’s state of mind from the surrounding circumstances, instructing them to that effect was not an error.

### **C. Operating a Snowmobile Under the Influence Instruction**

“To constitute obvious error, ‘there must be (1) an error, (2) that is plain, and (3) that affects substantial rights.’<sup>2</sup> If these conditions are met, we will exercise our discretion to notice an unpreserved error only if we also conclude that (4) the error

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<sup>2</sup> “An error affects a criminal defendant's substantial rights if the error was sufficiently prejudicial to have affected the outcome of the proceeding.” *State v. Westgate*, 2016 ME 145, ¶ 16 (Quoting *State v. Fay*, 2015 ME 160, ¶ 13).

seriously affects the fairness and integrity or public reputation of judicial proceedings.” *State v. Gervais*, 2025 ME 27, ¶ 20 (Quoting *State v. Pabon*, 2011 ME 100, ¶ 29). “The crux of the obvious error analysis is ‘whether the obviousness of the error and the seriousness of the injustice done to the defendant thereby are so great the Law Court cannot in good conscience let the conviction stand.’” *State v. Gervais*, 2025 ME 27, ¶ 23 (Quoting *State v. Daley*, 440 A.2d 1053, 1055 (Me. 1982)).

The trial court’s instruction on Count 2 included incorrect phrasing that instructed Scout could be convicted if his blood alcohol level were “0.00 grams or more” rather than “more than 0.00 grams” as 12 M.R.S.A. § 10701(1-A)(C)(3) requires. (A. 59-60, 78-79) That misstatement amounts to an error and the error is plain. *State v. Lovejoy*, 2014 ME 48, ¶ 19 (“An error is plain if it is so clear under current law that the trial court can be expected to address it, even absent the defendant's timely objection to it.”).

Although the misstatement was an error and the error is plain, it was not an error that affected Scout’s substantial rights because “the error was [was not] sufficiently prejudicial to have affected the outcome of the proceeding.” *State v. Westgate*, 2016 ME 145, ¶ 16 (Quoting *State v. Fay*, 2015 ME 160, ¶ 13). The Law Court has ruled that “that a failure to properly instruct the jury on each of the essential elements of the offense [charged] constitutes obvious error affecting

substantial rights ....” *State v. Westgate*, 2016 ME 145, ¶ 17 (Quoting *State v. Nickerson*, 534 A.2d 1323, 1325 (Me. 1988)). “In order for the criminal justice system to attain just and efficient results through the medium of a jury, it is mandatory on the part of a trial judge that in his charge to the jury he inform them in clear and concise terms as to the law which *is applicable to the particular facts in issue which the evidence tends to prove.*” *State v. Westgate*, 2016 ME 145, ¶ 17 (Emphasis added) (Quoting *State v. Bahre*, 456 A.2d 860, 866 (Me. 1983)). Scout’s specific blood alcohol content was not a fact in issue on which evidence was offered. There was no risk that the jury found Scout had a “0.00” blood alcohol content and convicted on that basis because there was no evidence presented that Scout had a “0.00” blood alcohol content (or any other specific blood alcohol content). It was not just the trial court that overlooked this detail, the prosecution and the defense did as well. Neither of the parties was focused on Scout’s specific blood alcohol level because while the trial involved evidence that Scout had been impaired by alcohol (and marijuana) at the time of the fatal crash, no evidence of Scout’s specific blood alcohol level was introduced. Because there was no evidence that Scout had a “0.00” blood alcohol level (or evidence of any other specific blood alcohol level), the trial court’s misstatement was not prejudicial to Scout and did not affect the outcome of proceedings.

In addition to not affecting Scout's substantial rights, the error did not "seriously affect[ ] the fairness and integrity or public reputation of judicial proceedings." *State v. Gervais*, 2025 ME 27, ¶ 20. If the trial had involved evidence of a specific blood alcohol content or evidence of competing specific blood alcohol levels, the trial court's misstatement would have had more significance, but based upon the evidence presented, the risk that the jury concluded that Scout had a blood alcohol content of "0.00" and then convicted him on that basis is nonexistent.

#### **D. Cumulative Impact of Errors**

The trial court made two errors when it instructed the jury in that (1) the trial court provided a current causation instruction when concurrent causation was never generated as an issue and (2) the trial court misstated the specific blood alcohol content element of the operating a snowmobile under the influence offense. To the extent the concurrent causation instruction had an effect on the proceedings, that effect was beneficial to Scout in that the State was required to prove more facts than it otherwise should have. *State v. Peaslee*, 571 A.2d at p. 827.

These errors did not prejudice Scout either individually or cumulatively. The trial court's error in providing the concurrent causation instruction benefited Scout because the jury should never have been asked to consider concurrent causation. *State v. Peaslee*, 571 A.2d at p. 827. The trial court's error in misstating the specific blood alcohol element of the operating a snowmobile under the influence offense

was not prejudicial for all of the reasons identified above. There is no cumulative impact to consider.

## **II. The trial court did not commit reversible error when it excluded Juror 6.**

Prior to the commencement of the jury selection process, Juror 6 had indicated that because of their religion, they did “not want to judge another person.” (Jury Selection TR 33) The State suggested that Juror 6 ought to be excluded for cause. (Jury Selection TR 33-34) Scout indicated he did not believe Juror 6 needed to be excluded. (Jury Selection TR 34) Scout pointed to the several instances<sup>3</sup> when the entire jury pool was asked several times during the general voir dire whether there were reasons they could not be fair and impartial and Juror 6 never indicated that they could not. (Jury Selection TR 34) The trial court excluded Juror 6 for cause without conducting any additional voir dire. (Jury Selection TR 34) Scout did not ask to conduct additional voir dire Juror 6 and the trial court did not deny Scout the opportunity to conduct additional voir dire of Juror 6. (Jury Selection TR 34) At the conclusion of the jury selection process, the trial court inquired whether both parties were satisfied with the jury selected and both parties indicated that they were. (Jury Selection TR 92)

### **A. Scout waived any objections he had to the composition of the jury when he indicated the jury as selected was satisfactory to him.**

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<sup>3</sup> These are at Jury Selection TR 16, 17, 18, and 24.

When Scout indicated that he was satisfied with the jury selected, he waived any objection he may have had based on the exclusion of Juror 6. *State v. Fischer*, 238 A.2d 210, 215 (Me. 1968) (“The defendant cannot accept the jury as satisfactory until it returns an unfavorable verdict and then successfully raise a belated objection to the jury's constitution.”)

**B. Scout had an impartial jury that represented a fair cross-section of the community.**

Notwithstanding Scout’s waiver of this issue, Scout was entitled to an “impartial jury” “drawn from a fair cross section of the community . . .” *State v. Holland*, 2009 ME 72, ¶ 22. Scout has not argued that any of the jurors who served in his case were not fair and impartial. Scout has not argued that the jurors who served in his case did not represent a fair cross-section of his community. Scout contends that the trial court inadequately conducted its voir dire, but does not tie this purported inadequacy of voir dire to any impairment of his constitutional rights and appears to concede that he had a fair and impartial jury comprised of a fair cross-section of the community. The fact that a potentially impartial potential juror was excluded from the jury panel has no bearing on whether the jurors *actually selected* were fair and impartial and represented a fair cross-section of the community.

The exclusion, rather than inclusion, of any particular juror does not implicate a criminal defendant’s Sixth Amendment rights unless that exclusion deprived that criminal defendant of a jury comprised of a fair cross-section of the

community.<sup>4</sup> Consideration of juror impartiality concerns the impartiality of the jurors actually selected, not unselected potential jurors, whereas consideration of whether the jury panel represented a fair cross-section of the community focuses on the jury pool in its entirety. *State v. Holland*, 2009 ME 72, ¶ 22. Scout had a right to a fair and impartial jury, but not a right to have any particular juror selected including Juror 6. The exclusion of Juror 6, even if it had been done erroneously, does not implicate Scout's right to a fair and impartial jury because Scout still had a fair and impartial jury.

**C. It was appropriate to exclude Juror 6 for cause.**

Finally, it was not an error to exclude Juror 6 because Juror 6 disclosed they could not perform an essential function required of the jury. The answers to the juror questionnaire are competent evidence supporting the trial court's decision. *State v. Carey*, 2019 ME 131, ¶ 14. The fact that conflicting evidence<sup>5</sup> existed does not undermine that finding. *Id.*

## **CONCLUSION**

For the foregoing reasons, Scout's convictions must be affirmed.

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<sup>4</sup> Scout has not raised any issues related to the use of preemptory challenges or purposeful discrimination on the part of the State.

<sup>5</sup> The inability to sit in judgment of another person and the ability to impartially consider evidence are not mutually exclusive characteristics. Impartially considering the evidence is one essential function of a juror and making a judgment based upon that impartially considered evidence is another essential juror function. This juror indicated they could perform one of those functions but not the other.

July 15, 2026

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## **CERTIFICATE OF SERVICE**

I hereby certify that on July 15, 2026, I mailed two copies of Appellee's brief to Appellant's attorney, via first-class mail, at the below referenced address:

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