In re Juvenile T.

Appeal from the Cumberland County Juvenile Court

Supreme Judicial Court sitting as The Law Court
Law Court Docket No. CUM-24-387

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Introduction

The adjudication for the charge of Arson under Title 17-A M.R.S. § 802(1)(B)(2) should not be overturned as de minimis pursuant to Title 17-A M.R.S. § 12 because that argument is without merit and was not raised in a timely fashion. In his closing at trial, for the first time, Juvenile T. raised the argument that this particular subsection of the Arson statute is de minimis when applied to the facts of Juvenile T.'s case because his conduct was not envisioned by the Legislature when they authored 17-A M.R.S. § 802(1)(B)(2). The evidence presented at trial established that the conduct involved was not a de minimis infraction under Title 17-A M.R.S. § 12. Nor was said conduct trivial in the eyes of the State and the Legislature. Additionally, it is logical to interpret Title 17-A M.R.S.§ 802(1)(B)(2) as encompassing the conduct in which Juvenile T. engaged because such an interpretation of the law results from the plain reading of the statutory language. Lastly, there was sufficient evidence presented at trial to support Juvenile T.'s adjudications for Criminal Mischief and Theft by Unauthorized Taking. Said adjudications rest in large part upon the Trial Court finding that the State's key trial witness was credible regarding these charges. Moreover, this witness' testimony was corroborated with other evidence admitted at trial.

Procedural History

The State, as Appellee, largely adopts Juvenile T.'s summary of the cases' procedural history as outlined in his brief. Notwithstanding the adoption of Juvenile T.'s version, the State responds and clarifies the following information from the record.

To begin, the State does not adopt certain terms Juvenile T. uses throughout his brief which are only applicable to adult criminal offenses and the procedures employed throughout the Unified Criminal Court system. Significantly, Juvenile T.'s cases consolidated for review by this Court were both Juvenile cases litigated in the Portland District Court, PORDC-JV-2023-046 and PORDC-JV-2023-115. As such, the Trial Court followed the laws of the Maine Juvenile Code as set forth in Title 15, Part 6. Therefore, any assertions wherein Juvenile T. references the Trial Court found him "guilty" or imposed a "conviction" are inaccurate, as Juvenile T. was not found guilty nor convicted of any crimes. Rather, the charges at issue in this brief are juvenile crimes for which he has been adjudicated. Moreover, concerning the final resolution of the cases, rather than a "sentence," the Trial Court employed the language of the Juvenile Code and imposed a concurrent disposition on Juvenile T.'s matters, which included a fully suspended indeterminate commitment to the age of 19 to the Long Creek Youth Development Center, formerly known as the Maine Youth Center.

Turning to page 9 of Appellant's Brief, with regards to disposition in PORDC-JV-2023-046, the Trial Court adjudicated Juvenile T. and imposed disposition on count 2 Criminal Mischief and count 4 Theft by Unauthorized Taking (respectively), rather than counts 1 and 2. At the bottom of page 9 of Appellant's Brief, it is important to note that the separate juvenile petition referenced therein is PORDC-JV-2023-115. The motion for bill of particulars that Juvenile T. references on page 10 was specific to this latter docket only, as were the motion to dismiss for discovery violations referenced earlier in the middle of page 9, and both the adjudication and dispositional hearings later referenced on page 11. Regarding that same matter, Juvenile T. asserts on page 10 that he filed a motion to dismiss the Terrorizing charge (count 3) on January 8, 2024, and that count 3 of that petition was dismissed, implying that the dismissal was a result of said motion. Rather, *sua sponte* the State filed a dismissal of the Terrorizing charge on February 15, 2024; this was not in response to Juvenile T.'s motion to dismiss. Notably on the formal dismissal, the State indicated the "victim does not wish to pursue charges," which was communicated to the State by the alleged victim's family just prior to the State's filing of the dismissal. This was the sole basis for the dismissal of this count.

Following the close of testimony in each trial, the Court permitted the parties to submit written closing arguments. Both parties availed themselves of this

opportunity in each of the cases. Juvenile T.'s closing argument from PORDC-JV-2023-115 was included in the Appendix. (Appendix at 89). However, neither of the State's closing arguments, nor Juvenile T.'s closing argument from PORDC-JV-2023-046 were included in the Appendix.

Statement of Facts

The State adopts much of Juvenile T.'s summary of the Statement of Facts as outlined in his brief. Notwithstanding the adoption of Juvenile T.'s version, the State responds and supplements with the following facts from the Trial Court records.

The evidence presented at trial highlighted the grave concerns of a key witness for the State, [redacted] when he reported Juvenile T.'s actions to law enforcement and cooperated with the State throughout both trials, out of his concern for public safety. He had nothing to gain and a lot to lose in doing so. In fact, the Trial Court noted that [redacted] "…testified against his own interest regarding his involvement in these criminal offenses..." (June 11, 2024 Order at 4, footnote 5). In its order, the Trial Court noted its observations that [redacted] "…may have been well meaning and motivated by what he believed to be true…" (July 16, 2024 Order at 3). Indeed, [redacted] testified in PORDC-JV-2023-115, that he reported his concerns to law enforcement "…to disclose 'the plan' at a point in time in 2023 *when* [redacted] *thought* the juvenile defendant 'was about to snap'…" (July 16, 2024 Order at 4, emphasis added).

The evidence presented at trial was replete in highlighting Juvenile T.'s infatuation with the Columbine school shooting, a proclivity for hate and

discrimination towards certain groups and classes of people, and video recordings of his own para-military trainings as well as memorialized writings regarding his beliefs and motivations. In PORDC-JV-2023-046, "[t]here was generalized testimony and evidence presented that the juvenile defendant harbored beliefs at the time of the offense described as 'Neo-Nazi', 'right wing', 'anti-minority' and 'homophobic'." (June 11, 2024 Order at 6). Additionally, in the Trial Court's order from the trial on the second case, PORDC-JV-2023-115, the Court writes, "[t]he State has established that the juvenile had an infatuation with the details of the Columbine school shooting and perhaps an admiration for the shooters, sent videos in military or costumed imitating garb, and harbored white supremacist, racist and homophobic beliefs." (July 16, 2024 Order at 2).

Regarding Juvenile T.'s homophobic beliefs, during the trial on PORDC-JV-2023-046, the Trial Court noted, "[t]here was a damaged pride flag found in defendant's possession at the time his residence was searched, but there was no testimony or evidence presented that established conclusively whether *this* recovered pride flag was (or was not) the flag belonging to Noelle Cooper or any other specific person." (June 11, 2024 Order at 3, footnote 4, emphasis added). Moreover, with regards to the Criminal Mischief and Theft by Unauthorized Taking charges for which he was adjudicated (Count 2 and Count 4 respectively), the Trial Court wrote "[redacted] testified credibly about these events which

included an admission that it was [Juvenile T.'s] idea to steal 'gay pride' flags from certain identified residences and that [Juvenile T.] drove the vehicle while [redacted] did the actual taking of the flags from each residence." (June 11, 2024 Order at 4, repeated at 5). Specific to the Criminal Mischief charge, the Trial Court continued, "[t]he other supporting evidence established convincingly that the pride flag taken from Noele Cooper was either burned or otherwise taken and not returned to her, and the specific identified flagpole was damaged." (June 11, 2024 Order at 4). Specific to the Theft by Unauthorized Taking charge, the Trial Court added, "[t]he court finds the testimony of [redacted] to be credible on this issue. The other supporting evidence established convincingly that the pride flag taken from Noele Cooper was either burned or otherwise taken without her authorization with the intent to deprive Ms. Cooper of the property, which was not returned to her (the flag), and that the supporting identified flagpole was damaged." (June 11, 2024 Order at 5).

During the trial on PORDC-JV-2023-115, the Trial Court admitted a video into evidence of Juvenile T.'s crime, over his objection. This video was obtained after a lawful search of Juvenile T.'s social media or computer, and also had been shared by Juvenile T. over social media. (July 16, 2024 Order at 4-5, footnote 8). The video showed Juvenile T. throwing Molotov cocktails at Wainwright Field in South Portland, resulting in fire and explosion. (July 16, 2024 Order at 4). This

video captures Juvenile T. setting himself and his ghillie suit on fire, then after frantically putting that fire out, picking up the still-burning Molotov cocktail and throwing it towards the person who is recording the event. (July 16, 2024 Order at 5). The Trial Court received testimony about this video from witness [redacted] as well as a witness designated by the court as Jane Doe[1]. The Trial Court relied upon Jane Doe as a corroborating witness to the contents of the video and identification of the juvenile defendant. (July 16, 2024 Order at 6, footnote 10). In its order, the Trial Court concluded that it did not need to determine whether Juvenile T.'s act of throwing the Molotov cocktail in the direction of the videographer recklessly endangered that person because the Trial Court had already determined that Juvenile T. at the very least, recklessly endangered himself. (July 16, 2024 Order at 6, footnote 9).

[1] As referred to in the Court's order, "[t]he alias 'Jane Doe' was substituted for the proper name of the juvenile witness to protect her identity and maintain it as confidential following motion and request by both the State and the juvenile witness." (July 16, 2024 Order at 1, footnote 2).

Issues Presented for Review

I. Whether Title 17-A M.R.S. § 12 as applied to the facts of this case justifies a dismissal of Arson as de minimis.

II. Whether the Trial Court correctly interpreted Title 17-A M.R.S. § 802(1)(B)(2) in regards to the phrase "any person".

III. Whether there is sufficient evidence to support the adjudications of Criminal Mischief and Theft by Unauthorized Taking.

Statement of Issues Presented for Review

Title 17-A M.R.S. § 12 De Minimis Infractions does not apply to the crime of Arson, a class A Felony level offense. Juvenile T. argues that subsections (1)(B) and (1)(C) of Title 17-A M.R.S. § 12 "forestall a conviction for arson" (Appellant's Brief at 22). Throughout his brief, Juvenile T. repeatedly refers to his criminal conduct as "trivial." Furthermore, he indicates that he "accidentally set fire to himself while lighting a Molotov cocktail resulting in no significant damage or harm" (Appellant's Brief at 22). However, the evidence presented at trial established that Juvenile T.'s actions, at the very least, recklessly endangered himself and burned the ghillie suit he was wearing. It is reasonable to believe that conduct of such a serious nature could have been envisioned by the Maine Legislature when the statute was enacted and as such, it is covered by the charge of Arson in Title 17-A M.R.S. § 802(1)(B)(2).

Additionally, it is logical and reasonable to interpret the charge of Arson under Title 17-A M.R.S. § 802(1)(B)(2) in the manner that Juvenile T. was charged and of which the Trial Court adjudicated him. As part of his reasoning, Juvenile T. asserts that "[t]he statute allows for arson to occur, as charged here, where an individual has *only caused harm to themselves*" (Appellant's Brief at 22, emphasis added). To the contrary, a plain reading of the statute shows the intent of the Legislature. First, the causation of harm does not need to be proven to prevail in

the prosecution on this charge. When prosecuting this crime, the State's burden requires proof that the actor recklessly endangered any person or the property of another. Moreover, "any person" does not refer to only the actor, but rather could include the actor or anyone else. Juvenile T.'s conclusion is misplaced, wherein he states "…the broad wording of the statute allows for trivial arson crimes, where no substantive damage or harm occurs to be charges [sic] under the serious categorization of arson as a Class A crime" (Appellant's Brief at 22). Under this prong of the statute, the State does not need to prove that substantive damage or harm occurred. Rather, the State must prove that the actor's conduct resulted in recklessly endangering any person, whether it be the actor himself or anyone else.

Finally, there was abundant evidence presented at trial to support Juvenile T.'s adjudications for Criminal Mischief and Theft by Unauthorized Taking. In regards to these particular charges, the Trial Court found the testimony of witness [redacted] credible and supportive of these adjudications. Moreover, Juvenile T.'s adjudications are not based upon this witness' testimony alone. Rather, additional independent evidence presented at trial corroborated [redacted]'s testimony, leading to Juvenile T.'s adjudications on these two charges.

Argument

I. Title 17-A M.R.S. § 12 as applied to the facts of this case does not justify a dismissal of Arson as de minimis.

Juvenile T. claims that the Trial Court abused its discretion in denying his motion to dismiss the Arson charge against him as de minimis because Juvenile T. believes the facts of this case "[p]resent such other extenuations that it cannot reasonably be regarded as envisaged by the Legislature in defining the crime". Title 17-A M.R.S. §12(1)(C). That claim ought to be denied for two reasons. First, the argument lacks merit. The plain meaning of 17-A M.R.S. § 802(1)(B)(2) is a clear and logical expression of legislative intent. The Trial Court correctly interpreted the statute in accordance with that intent. Second, Juvenile T.'s claim was made in an untimely manner that did not accord with the Maine Rules of Criminal Procedure and which precluded a meaningful response by the State.

This Court reviews a Trial Court's ruling on a motion to dismiss as de minimis under the abuse of discretion standard. State v. Hofland, 2012 ME 129, ¶ 11, 58 A.3d 1023, 1027 (Me. 2012). This Court has held that Trial Courts have "broad discretion in determining the propriety of a de minimis motion," but that charges should be dismissed as de minimis only in "extraordinary cases." State v. Kargar, 679 A.2d 81, 83, 85 (Me. 1996). In deciding the above question, the Trial Court was called upon to interpret specific statutory language in 17-A M.R.S. §

802(1) in order to discern if the facts in this case presented an extenuating circumstance not envisaged by the Legislature.

Juvenile T. claims that the Legislature could not have envisioned application of Title 17-A M.R.S. § 802(1) to situations wherein only the arsonist themselves is endangered by their conduct. Title 17-A M.R.S. § 802(1) reads as follows:

> 1. A person is guilty of arson if he starts, causes, or maintains a fire or explosion;
>
> A. On the property of another with the intent to damage or destroy property thereon; or
>
> B. On his own property or the property of another
>
> (1) with the intent to enable any person to collect insurance proceeds for the loss caused by the fire or explosion; or
>
> (2) which recklessly endangers any person or the property of another.

The State maintains that the Legislature's use of the words "any person" plainly expresses their intent to include an individual who starts, causes or maintains a fire within the purview of 17-A M.R.S. § 802(1)(B)(2). In that same subsection, the Legislature created a safe-harbor for destroying one's own property with the use of the phrase 'or the property of another'. However, within the same sentence the Legislature felt no such need to carve out a similar safe-harbor for self-immolation. Furthermore, any other reading of that language would give an absurd meaning to the statute as a whole and legalize the most obvious harm sought to be prevented by the law, the classic arson. This is because such a reading

would presume that when the Legislature authored 17-A M.R.S. § 802(1)(B)(1) they did not intend to criminalize the destruction of one's own property in order to collect insurance proceeds. *Reductio ad absurdum* the Legislature did intend the language 'any person' to apply to the actor themselves.

Juvenile T.'s analysis of the legislative history misses the mark. First, only if "there is an ambiguity in the plain meaning" does this Court look "beyond that language to the legislative history". FPL Energy Maine Hydro LLC v. Dep't of Envtl. Prot., 2007 ME 97, ¶ 12, 926 A.2d 1197, 1201. As will be detailed in section II below, there is no such ambiguity so an analysis of the legislative history is improper. Assuming arguendo that such an analysis is necessary, the State notes that Juvenile T.'s reference to Assistant Attorney General Diamond's letter is misplaced. That letter addresses a very different public policy concern, namely the destruction of property rather than the endangering of a human life. Concerning his worries, then Assistant Attorney General Diamond writes that the statute technically encompasses "the destruction of any *property*, no matter how insignificant the value"[2] (emphasis added). However, the State's theory which was adopted by the Trial Court in its findings, was that Juvenile T.'s conduct recklessly

[2] See Letter to Criminal Law Advisory Commission Members and Consultants from Stephen Diamond, Assistant Attorney General (Agenda for meeting April 21, 1977 at 44; available at http://lldc.mainelegislature.org/Open/Commissions/CriminalLaw/CLRC 107-27.pdf

endangered "any person" as opposed to "the property of another", a prosecution allowed by the disjunctive nature of Title 17-A M.R.S. § 802(1)(B)(2).

Furthermore, this Court should not consider a statute illogical simply because it applies to people who do harm to themselves.[3] The Supreme Court of the United States has made it clear that the Constitution does not embody any particular social theory be it "paternalism and the organic relation of the citizen to the state or of *laissez faire*" Lochner v. New York, 198 U.S. 45, 75–76 (1905) (Quotation from Justice Holmes' dissent), abrogated by W. Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937). The Court clarified that the "police power is not confined to a narrow category" such as the right to contract discussed by the *Lochner* decision but instead "to all the great public needs". Day-Brite Lighting Inc. v. State of Mo., 342 U.S. 421, 424 (1952). It is therefore neither surprising nor is it constitutionally suspect that states such as Maine might criminalize or otherwise prohibit acts which harm primarily or exclusively the actor.

In fact, Maine law is replete with examples of purely paternalistic criminal and civil prohibitions and Maine has a long legal tradition of paternalistic legislation dating back to 1851 when it enacted a near total ban on alcohol for

[3] Nor does the State concede that criminalizing self-immolation protects only the self-immolated. The unpredictable element of fire coupled with a burning person's natural tendency to panic is a dangerous mixture with vast potential to spread harm throughout the community. Like a cow kicking over a lantern in a barn, it could endanger the entire city.

recreational purposes.[4] Maine currently prohibits the use and possession of certain scheduled drugs (17-A M.R.S. §1107-A and §1114) and most gambling activities (17-A M.R.S. §954). Maine even explicitly criminalizes driving to endanger one's self (29-A M.R.S. §2413). This paternalistic thread in the tapestry of Maine law is even more evident in laws specific to juveniles, whether as a prohibition on using, transporting or possessing alcohol (28-A M.R.S. §2051) or marijuana (22 M.R.S. §2383) or a mandate to wear a helmet on a bicycle or set of roller skis (29-A M.R.S. §2323). Indeed, the Maine Juvenile Code's stated purpose, to "secure for each juvenile subject to these provisions such care and guidance, preferably in the juvenile's own home, *as will best serve the juvenile's welfare* and the interests of society", is explicitly paternalistic. 15 M.R.S. §3002(1)(A) (emphasis added). The State maintains that it best serves any juvenile's welfare to not self-immolate. It is by no means unreasonable that the State might want to prohibit people from recklessly lighting themselves on fire. Certainly, the preservation of life and property are entirely proper State interests and 17-A M.R.S. § 802(1)(B)(2)'s prohibitions have a rational basis connecting them to the prevention of harm to life and property. To that end, Juvenile T.'s characterization of his actions as "trivial", as well as his argument that the crime of Arson should be negated as de minimis,

[4] That ban was the law of the land in Maine for over 80 years until it was repealed by the legislature in 1934.

downplay any appreciation for the true seriousness of the crime and the gravity for which it was afforded by the Legislature.

The State also takes issue with Juvenile T.'s de minimis argument for lack of timeliness. The remedy provided by 17-A M.R.S. §12(C) is a dismissal, which is the most significant consequence a court could impose. Me. R. Crim. P. 12(B)(3)(A) fixes the timeline for the filing of "motions to dismiss" and it provides that they must be filed "no later than the next court day" following the dispositional conference. No de minimis motion was filed on that timeline. Nor was such a motion filed upon receipt of the State's bill of particulars in this matter, which arguably triggered a later filing time line pursuant to Me. R. Crim. P. 12(B)(3)(B), which generally allows motions to be brought "promptly after grounds for the motion arise". Nor was it received "before trial" as required by Me. R. Crim. P. 12(B)(1). Title 17-A M.R.S. § 12 provides that the de minimis analysis is only implicated "upon notice to or motion of the prosecutor and opportunity to be heard". Appellant indicates in his brief that only "after the trial evidence had been tendered" did it become "clear" to Juvenile T.'s trial counsel that a motion to dismiss as de minimis was appropriate. (Appellant's Brief at 25). However, Juvenile T. cites no specific reason that the same evidence which was provided in discovery, and specifically associated with the appropriate charge for him in a bill

of particulars, somehow raised a new de minimis issue only when subsequently presented at trial.

This issue was raised only *after* the evidentiary record had closed. Not only did that tactic foreclose the State from highlighting testimony and other evidence that would be relevant to both the Arson trial and the de minimis analysis, it completely precluded the State from raising other evidence regarding the "background, experience and character" of Juvenile T., as well as the absence of "mitigating circumstances" and the "impact of the violation upon the community" that was relevant solely to the de minimis argument. State v. Kargar, 679 A.2d 81, 84 (Me. 1996).

II. The Trial Court correctly interpreted Title 17-A M.R.S. § 802(1)(B)(2) in regards to the phrase "any person".

It is both logical and reasonable to interpret Title 17-A M.R.S. § 802(1)(B)(2) in a manner where Juvenile T. is charged with and adjudicated of Class A Arson. Juvenile T. raises issue with the statute's "broad wording". (Appellant's Brief at 22, 29). The fact that Juvenile T. does not like the words used in the Arson statute does not make them overbroad. Courts are tasked with interpreting applicable statutes using their plain meaning.

This Court reviews questions of statutory interpretation de novo. State v. Legassie, 2017 ME 202 ¶ 13 (Me. 2017). Only when there is ambiguity in the statutory language, must the court look beyond that language to the legislative history. State v. Bjorkaryd-Bradbury, 2002 ME 44, ¶ 9, 792 A.2d 1082, 1084 (Me. 2002); Great Northern Paper v. Penobscot Nation, 2001 ME 68, ¶ 14, 770 A.2d 574, 580. "Our main objective in statutory interpretation is to give effect to the Legislature's intent." *Id*. ¶ 15, 770 A.2d at 580. "To determine that intent, we look first to the statute's plain meaning and, if there is ambiguity, we then look beyond that language to the legislative history." *Id.* In the case at bar, the Trial Court did just this when interpreting the applicable law. Therefore, this Court need not address Juvenile T.'s argument to resolve any ambiguity, because there is no ambiguity to begin with. As a result, the Trial Court did not need to look to the legislative history and rather simply applied a plain meaning to the statutory language. This was the proper analysis, appropriately leading the Trial Court to adjudicate Juvenile T. of the crime of Arson.

Juvenile T. asserts "that it would be illogical to interpret Title 17-A M.R.S. § 802(1)(B)(2) in a manner where he is charged with Class A arson. The statute allows for arson to occur, as charged here, where an individual *only harms themselves.* Additionally, the broad wording of the statute allows for trivial arson crimes, *where no substantive damage or harm occurs*, to be charged as if there was

more serious, damaging arson behavior." (Appellant's Brief at 29, emphasis added). This argument is flawed for two primary reasons. First, to meet the elements of the statute as charged, no harm or damage need occur, as evidenced through a plain reading of the statute. Second, as part of his argument, Juvenile T. fabricates the qualifier phrase of the individual harming *only* themselves, which is in stark contrast to the actual statutory language of "any person".

When prosecuting this crime as it is charged, the State's burden is to prove that the actor recklessly endangered any person or the property of another. Contrary to Juvenile T.'s assertion, the State does not need to prove that anyone was actually harmed during the act. The video admitted into evidence showed Juvenile T. lighting a Molotov cocktail and throwing it, resulting in an explosive fire when it hits the ground. The video further revealed Juvenile T. setting himself on fire by spilling the burning contents of the Molotov cocktail onto the ghillie suit he was wearing while he was in the act of throwing it. A ghillie suit is an article of camouflaged clothing traditionally made from burlap, which is readily flammable and highly combustible. Therefore, common sense would dictate that it is important for one who is wearing a ghillie suit to be cautious around fires and open flames. From the evidence presented at trial, Juvenile T. certainly was not using caution. To the contrary, his actions were extremely reckless in placing himself (and arguably another person, when Juvenile T. threw the burning Molotov

cocktail at the videographer) in a dangerous situation. The conscious disregard of risk that Juvenile T.'s conduct presented speaks to a level of recklessness that should not be dismissed simply as an accident. As defined by Merriam-Webster, an accident is "an unforeseen and unplanned event or circumstance…an unfortunate event resulting especially from carelessness or ignorance." In the case at bar, Juvenile T.'s actions should not be cast aside as unforeseen. To the contrary, Juvenile T. lighting himself on fire was a reasonably foreseeable consequence directly resulting from his actions. As noted by the Trial Court, Juvenile T.'s actions using Molotov cocktails were "…clearly reckless and had the potential to cause great harm or damage." (July 16, 2024 Order at 7).

The subsection of the Arson statute that the State elected to charge does not require the State to establish either the causation of harm or occurrence of any substantive damage to prevail in its prosecution. Rather, the State must prove that the actor's conduct resulted in recklessly endangering any person, whether that be the actor or anyone else. Significantly, the State exercised its prosecutorial discretion and refrained from charging a different subsection of the Arson statute, namely Title 17-A M.R.S. § 802(1)(A), which would have required the State to prove the actor's intent for damage or destruction of property as an element of the crime.

Moreover, Juvenile T.'s assertion is misplaced wherein he states "[t]o allow for the statute to be read so that 'any person' may be guilty of arson, if they recklessly endanger themselves, is illogical…and cannot be the intended effect of the statute." (Appellant's Brief at 31). In an attempt to illustrate his point, Juvenile T. gives examples of the crimes of Murder, Manslaughter, Assault, Criminal Threatening, Stalking, Reckless Conduct, and Kidnapping. (Appellant's Brief at 31, 32). Notably, the subject of the harm in each of these crimes is consistently identified as either "another human being" or "another person". Significantly, "another human being" and "another person" are not the same as "any person," because those terms clearly differentiate between the actor himself and anyone else. The former phrases, by definition, expressly preclude these statutes from applying to the actor. Juvenile T.'s examples of Terrorizing and Robbery likewise miss the mark. (Appellant's Brief at 32). While the statutory language of these two crimes uses the term "any person," the additional language of these statutes makes it clear that they cannot apply to the actor himself, thus distinguishing these statutes from the Arson statute.[5]

[5] Regarding the crimes of Terrorizing and Robbery, from a plain reading of the statutes, it is clear that these crimes cannot apply to the actor himself, as doing so would lead to nonsensical and absurd results. For sake of argument, any attempt to do so would result in the following:
In summary for Terrorizing, a person could be charged with communicating to himself a threat to commit or to cause to be committed a crime of violence dangerous to human life… thereby placing himself or another person in fear that the crime will be committed. Title 17-A M.R.S. § 210(1)(A).
In summary for Robbery, a person could be charged with committing or attempting to commit theft, and at the time threatens to use force against himself or otherwise places himself in fear of the imminent use

Turning to the statute in the case at bar, the term "any person" in Title 17-A M.R.S. § 802(1)(B)(2), clearly includes the actor himself and anyone else. The common meaning of "any person" includes *anyone,* period. To manufacture exceptions to the phrase "any person" that are not contained within the wording of the statute would alter the reading of its plain meaning. Certainly, if the Legislature intended in the Arson statute that the risk of harm be directed only towards someone other than the actor, the phrase "another person" would have been utilized. The choice of the Legislature to use a phrase other than "another person," which is strewn throughout Title 17-A, can only be seen as a deliberate choice of terms. As articulated by the Trial Court below, Juvenile T. is seeking to create ambiguity where none exists in the plain meaning of the statute. If the Legislature had intended to exempt the actor himself from the definition of "any person," it would have done so. Notably, it did not.

The reading of "any person" to include the actor is furthermore consistent with the use of the same term in Title 17-A M.R.S. § 802(1)(B)(1) which criminalizes "any person", including the actor, from collecting insurance proceeds. To preclude the actor from "any person" here would mean that a person could not

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of force, with the intent to prevent or overcome resistance to the taking of the property, or to the retention of the property immediately after the taking. Title 17-A M.R.S. § 651(1)(B)(1).

be prosecuted for setting their own property on fire in order to collect insurance proceeds, which is clearly intended to be illegal. As written by the Trial Court:

> Here there is no ambiguity as the use of the term 'any person' by its common meaning includes anyone, including the defendant actor…Defendant in essence seeks to create an ambiguity where none exists by claiming the Legislature is capable of including the actor in the definition of 'person' if it seeks to do so, and that the failure to do so in the arson statute reveals an intention to not include the charged defendant. To begin with, the phrase at issue in the arson statute is 'any person', not 'a person'. In using the broader qualifier the Legislature is presumed to have chosen the desired preposition ('any') over the use of an article ('a') of language. Moreover, if the court adopted the reading of 'any person' in subsection § 802(1)(B)(2) of the statute as suggested by the defendant, it would have to define the same term ('any person') used in the preceding sentence in § 802(1)(B)(1) the same to avoid illogical construction and inconsistency. This would lead to the absurd result that a person who causes a fire on his own property with the intent to collect insurance proceeds resulting from the loss could not be found guilty of arson if the defendant actor was the beneficiary of these insurance proceeds. This is directly contrary to the clear intent of the Legislature and the very purpose for this statutory clause. As such, the court finds no ambiguity in the statute and construes the term 'any person' in the arson statute to include the defendant actor.
> (See Court's July 16, 2024 Order at 5-6).

Furthermore, this Court has had occasion to interpret the exact language of "any person" in the context of a criminal statute in the past. The Court was called upon to decide an appeal of a jury verdict from a civil case involving allegations that the plaintiff was assaulted and falsely arrested by a police officer in Portland.

Bale v. Ryder, 290 A.2d 359 (Me. 1972). The defendant urged that it was not a false arrest because the plaintiff was arrested lawfully for a violation of 17 M.R.S.A. §3953 (Maine's since-repealed disorderly conduct statute) whose operative phrase criminalized behavior meant to annoy or interfere with *any person* including Defendant in his role as a police officer. *Id.*

The Court noted that the "general rule unless such construction is inconsistent with the plain meaning of the statute, is that '(w)ords and phrases shall be construed according to the common meaning of the language. . . .' 1 M.R.S.A. s 72(3). 'Person' is defined by Webster as a 'human being.' The nonspecific adjective 'any' is said to mean 'indiscriminately of whatever kind,' or, 'no matter what one.' Common meaning of 'any person,' therefore, is a 'human being, no matter what one.'" *Id.* at 360. Juvenile T. is a human being within the common meaning of that term. As detailed above there is no ambiguity in the plain meaning of 17-A M.R.S. § 802(1) and that plain meaning is consistent with this Court's precedent as to the common meaning of the phrase 'any person' in the context of a criminal statute.

Ironically, Juvenile T. urges the Court to look to the plain meaning of the statute to *avoid* the "absurd" and "illogical" result of interpreting Juvenile T.'s actions as applying to himself, and thereby urges that he be acquitted of the Arson charge. However, the plain meaning of the statutory language itself compels no

other result than Juvenile T.'s actions applying to himself, thereby resulting in his adjudication of the Arson charge. Finding otherwise would cause an absurd result.

III. There is sufficient evidence to support the adjudications of Criminal Mischief and Theft by Unauthorized Taking.

Juvenile T. also challenges the sufficiency of the evidence relied upon by the Trial Court in adjudicating Juvenile T. of the crimes of Criminal Mischief and Theft by Unauthorized Taking. In determining sufficiency of evidence, the standard established is "whether, after reviewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt…Once a defendant has been found guilty of the crime charged, the factfinder's role as weigher of the evidence is preserved through a legal conclusion that, upon judicial review, *all of the evidence* is to be considered in the light most favorable to the prosecution." Jackson v. Virginia, 443 U.S. 307, 319 (1979). The Court discussed this standard in *Pierce v. Underwood*, stating this "does not mean a large or considerable amount of evidence, but rather 'such relevant evidence as a reasonable mind might accept the evidence as adequate to support a conclusion." Pierce v. Underwood, 487 U.S. 552, 565 (1988) citing Consolidated Edison Co. v. NLRB, 305 U.S. 197, 305 (1938). The trial in the present matter, as with all Juvenile trials, was a bench

trial. As such, the Honorable Peter Darvin was the sole factfinder. In reaching these adjudications, he clearly articulated the facts he relied upon and explained his reasoning with great detail in a Judgment and Order issued by the Court on June 11, 2024.

The appropriate standard for review is whether the Trial Court was clearly erroneous in making its findings. In discussing the clearly erroneous standard in *United States v. United States Gypsum Co.*, the Supreme Court indicated that "[a] finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948). In further clarifying this standard, the Supreme Court opined "[i]f the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." Anderson v. City of Bessemer, 470 U.S. 573-74 (1985). The Court in *Anderson* stressed that this deference should be particularly great when considering a Trial Court's findings regarding the credibility of witnesses, since a trial judge has the capacity to evaluate a witness' demeanor and tone of voice, concluding "when a trial judge's finding is based on his decision to credit the

testimony of one or two or more witnesses…that finding, if not internally inconsistent, can virtually never be clear error." *Id.* at 565.

There was sufficient evidence presented at trial to support Juvenile T.'s adjudications for Criminal Mischief and Theft by Unauthorized Taking. The testimony of the State's key trial witness, [redacted] was credible and lent support to Juvenile T.'s adjudications on these two charges. In the case at bar, Judge Darvin presided over all trials, evidentiary hearings, and extensive pre-trial litigation. He heard testimony from various witnesses and was positioned to have the best understanding of the evidence presented. He clearly articulated his basis for finding sufficient evidence to support the adjudications for Criminal Mischief and Theft by Unauthorized Taking, which included testimony he assessed as credible, as well as additional supporting evidence offered by the State. Juvenile T.'s argument rests entirely on the assertion that the Trial Court found certain aspects of testimony from a particular witness, [redacted], not credible. This argument inaccurately combines different findings of the Trial Court across multiple hearings into a purported blanket assumption that [redacted] was not credible in any capacity. Juvenile T.'s argument is fundamentally flawed and draws inaccurate conclusions as a result of conflating the Trial Court's findings on [redacted]'s testimony.

In his June 11, 2024 Order, Judge Darvin provides detailed insight into his assessment of [redacted]'s testimony. He cited concerns about [redacted]'s testimony regarding the Arson charge included in PORDC-JV-23-046, ultimately resulting in the Court acquitting Juvenile T. of that charge. However, he specifically found [redacted]'s testimony related to the Criminal Mischief and Theft by Unauthorized Taking charges to be credible.

> While certain aspects of the testimony of [redacted] are found not credible by the court, the portion of his testimony that 'it was [Juvenile T.]'s idea' to steal flags from certain porch residences and that [Juvenile T.] drove the vehicle that evening was detailed, coherent and credible. [redacted] testified against his own interest regarding his involvement in these criminal offenses, and the fact that he initially denied his own involvement in the commission of these offense and blamed only [Juvenile T.] does not undermine the court's findings or other determinations. (June 11, 2024 Order at 4, footnote 5).

Notably, Judge Darvin had the opportunity to assess [redacted]'s credibility during his testimony over multiple occasions and at different proceedings. The trial in PORDC-JV-23-046 (from which the Criminal Mischief and Theft by Unauthorized Taking charges originate) was held on January 31, 2024. The Judgment and Order regarding adjudication and disposition of that matter was issued on June 11, 2024. The State presented multiple witnesses, including the alleged victim, three law enforcement officers, two employees of the City of South Portland and [redacted], who was a former peer of Juvenile T. [redacted] also testified during proceedings

related to PORDC-JV-23-115, including the probable cause portion of the bind-over hearing held on March 1, 2024 and March 5, 2024 and again briefly at the trial held on June 24, 2024 and June 25, 2024. The bulk of [redacted]'s testimony was offered during the probable cause phase of the bind-over hearing in March, all of which was adopted into the subsequent trial record by stipulation of the parties. As a result of such extended litigation, Judge Darvin had the benefit of hearing from [redacted] and assessing his credibility during lengthy questioning over multiple proceedings associated with both of these cases prior to making his findings and issuing his decisions. Significantly, the Trial Court repeatedly found [redacted]'s testimony credible, especially with regards to the events underlying the factual allegations of the Criminal Mischief and Theft by Unauthorized Taking charges.

In suggesting that the evidence was insufficient to support adjudications, Juvenile T. erroneously states that his adjudications stood on [redacted]'s testimony alone. Juvenile T. argues "[w]ith the shaky acceptance of [redacted]'s testimony in the lower court, Juvenile T.'s convictions should not stand on that testimony alone" (Appellant's Brief at 35). As already addressed above, the Trial Court's acceptance of [redacted]'s testimony regarding these charges was not "shaky". Moreover, in contradiction to Juvenile T.'s assertion, additional independent

evidence presented at trial corroborated [redacted]'s testimony and was relied upon by the Court in reaching its conclusions.

As the finder of fact, Judge Darvin was in the best position to assess the credibility of [redacted]'s testimony and also relied upon supporting evidence in making his findings. It is clear that these adjudications were based upon sufficient evidence, weighed and considered by the trial Judge. Appropriate deference should be given to the Trial Court's assessment of the evidence and the adjudications for Criminal Mischief and Theft by Unauthorized Taking should be upheld.

Conclusion

Wherefore, for the reasons enumerated above, the adjudication for Arson should not be dismissed as de minimis and the adjudications for Criminal Mischief and Theft by Unauthorized Taking should be upheld as they are amply supported by the facts of the trial record.

Dated: January 8, 2025

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Certificate of Service

I, Abigail L. Couture, Assistant District Attorney for Cumberland County, hereby certify that on this date I have sent by electronic mail a copy of the foregoing Brief of Appellee, later to be followed by two printed copies, via the U. S. Postal Service, to Jeremy Pratt, Esq. and Ellen Simmons, Esq., Pratt & Simmons, P.A., P.O. Box 335, Camden, Maine 04843.

Dated: January 8, 2025

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