STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Docket No. KEN-2025-235
SRP-2025-237

STATE OF MAINE,
Appellee,

- against -

JONATHAN CHARRON,
Appellant

Appeal from the Unified Criminal Docket

for the County of Cumberland and State of Maine

Brief of the Appellant

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Summary of the Arguments

I. The Court in setting the basic term of imprisonment found that it did not believe that there were many worse ways to commit the offense of aggravated trafficking in scheduled drugs. However, it appears to have based that solely on the amount of narcotics seized from Mr. Charron. This basic sentence is wholly unsupported by the record.

II. The Court inappropriately considered as an aggravating factor the Defendant's post arrest convictions in step two of the *Hewey* analysis. The charges that he faced post-arrest should not have been considered in this matter. The fact that the Defendant had charges pending would have been an aggravating factor in those new, post-arrest, cases. Using them to aggravate his sentence in this matter amounted to double counting

III. The Court erred in ruling that the safety valve provision did not apply to Mr. Charron. The Court in doing so emphasized the importance of providing notice of the nature of sentences that may be imposed. However, especially in the context of the §1125 this is an inappropriate factor to emphasize as §1125 is emphasizing a clear policy emphasis of other sentencing factors.

IV. The Court's imposed sentence was done without due regard for the sentencing factors in both 17-A MRSA §1501 and 15 MRSA §2154. Its

sentencing decision disregarded important sentencing factors to impose a higher sentence then was appropriate.

Statement of Facts

"Mr. Charron is truly, in the view of the Court, the very rare inmate who sincerely is trying to better his life while in custody and he's done a lot. What Mr. Charron has done is almost unheard of in the experience of the Court. I simply never see this, and I am extremely impressed and my hat is off to Mr. Charron." (Sent. T. P. 69). This was the view of the Court (*Benson, A.*) while Mr. Charron's sentence was being imposed. However, despite recognizing the incredible progress Mr. Charron made, the Court still found that the appropriate sentence for Mr. Charron was fifteen years with all but eight suspended and four years of probation. (Sent. T. P. 72).

In coming to that conclusion, the Court heard from Mr. Charron's mother who explained that Mr. Charron became addicted to drugs "at a low point in his life" and expressed her regret that she and "his family, did not understand his addiction, recognize the signs, nor understand just how powerful this addiction truly was." However, she related that he had "a very good support system of family and friends [who] would not be here today if we did not feel so strongly about Jonathan's rehabilitation and his remorse for the crimes he's been charged with."[1] (Sent. T. P. 47-48).

[1] There were several family and friends who were in attendance to support Mr. Charron.

It also was not exclusive to Mr. Charron's family and friends who believe he was worth a chance a rehabilitation. Ms. Wright told a story about how a guard at the Maine Correctional Center volunteered to give up his Halloween with his kids just so Mr. Charron and Ms. Wright could have a visit at the prison. According to her, when she found out what the guard had done she apologized; his response was that there was no need to apologize and that "he had explained the situation to his children and told [them] that Jonathan was a very good person who had made a bad decision, but that he was still a good person and deserved an opportunity to visit with his mother." (Sent. T. P. 48). This is characteristic of every step of Mr. Charron's journey through the criminal legal system, at the Kennebec County Jail one of the nurses told Ms. Wright "what a nice polite person Jonathan is." (Sent. T. P. 47). The other guards at the prison related to her similar sentiments where they "compliment Jonathan all the time to his grandmother and myself." (Sent. T. P. 47-48).

This is corroborated by the various letters that were submitted as exhibits. The first being from Stephen Moro an adjunct professor at the University of Maine in Augusta. Mr. Charron has used his time wisely and has nearly finished a degree through that university. He asked, among others, Mr. Moro to provide a letter of recommendation, in which he wrote that "Mr. Charron became an outstanding student: persuasive, analytical, humble, focused, and hopeful." (A. 51). Mr. Moro

also provided insight into Mr. Charron's state of mind through a memoir he had written during Mr. Moro's course. Mr. Charron wrote that despite:

> "having lost all my possessions, vehicles, and life savings in the events that brought me here, I'm surprisingly optimistic about what the future might still hold, thanks to my faith. Faith has given me a new purpose and direction for my life. To become a better person, a better man with each passing day. As Benjamin Franklin said, 'be at war with your vices, at peace with your neighbors, and let every new year find you a better man.'" (A.51).

Mr. Moro was not the only professor to express similar insights into Mr. Charron's character. Katrina C. Hoop, PhD. Shared similar sentiments about him. Writing in her letter of support that she "found Jon to be very mature in his approach to his work. His writing was candid, reflective, and thoughtful." She also wrote of his supportiveness to his classmates and that "he helped create a safe and supportive learning environment with his style of engagement." (A. 52).

It also was not only professors who spoke highly of Mr. Charron. The Correctional Center chaplain complimented Mr. Charron's growth in the year leading up to the sentencing hearing and described how Mr. Charron "had experienced a shift and deepening in his reflection and understanding." (A. 53). Even one of the guards, Jason Johnson, wrote a letter of recommendation for him explaining that Mr. Charron was "active in college working on an associates degree and has held a peer mentor position for his assigned unit." (A.54). Mr. Charron was such a trusted inmate by the prison that when News Center Maine

decided to do a story on a new small library that was donated to the prison, the administration chose Mr. Charron to be their inmate spokesperson to discuss it. (A.55).

As mentioned above, Mr. Charron was enrolled in the University of Maine in Augusta through the prison. He was close to completion of his associates degree having taken courses in computer science, communication, writing, mathematics, physics, philosophy, sociology, and more. (A. 40). He performed so well in his Philosophy course, that his professor nominated him as an emerging leader. (A. 38). He was also nominated into a leadership role in the prison's Resident Interfaith Council as well. (A. 53). Mr. Charron has taken every opportunity to improve himself while at the prison receiving certificates for basic algebra and writing, mathematics, first communion, appreciation from his peers, basic computer courses, two restorative justice programs, motivational interviewing, brave behind bars, and a tier two substance use disorder treatment program. (A. 56-65).

By every account Mr. Charron has been a model inmate and has been since he was arrested and incarcerated. This is consistent with his assertions that his criminal conduct was outside of the norm of his character. His criminal conduct all occurred within a few years of each other, giving strong support to the contention that now that Mr. Charron's criminal episode was largely driven by substance use

and now that he has received treatment at the prison, he is no longer a danger to commit criminal conduct.

Procedural History

Mr. Charron was charged in this matter on or about March 18, 2021. He pleaded guilty more than four years later on April 23, 2025 and sentenced on the same day. Subsequent to that case Mr. Charron was charged in several other matters all of which were resolved prior to his sentencing in this matter and were resolved as follows:[2]

1. SOMCD-CR-2021-854 – Theft by Receiving Stolen Property (Class C) sentenced on or about September 6, 2022, to one year incarceration.
2. SOMCD-CR-2022-186 – Trafficking in Scheduled Drugs (Class B) sentenced on or about January 11, 2023 to three years' incarceration.
3. KENCD-CR-2021-00399 – Unlawful Possession of Scheduled Drugs (Class C) sentenced on or about November 25, 2024, to one year incarceration.

These cases are important context for the April 2023, 2025, sentencing hearing as by the time Mr. Charron appeared before the court on that date he had spend nearly three years in the custody of the Department of Corrections. Furthermore, Mr. Charron specifically pleaded guilty in KENCD-CR-2021-00399 because he was about to be released as his sentence was almost completed and he was denied

[2] Only the most serious charge and sentence is listed in the below recitation.

the opportunity for bail. Had that happened he would have returned to the Kennebec County Jail and lost much of his progress at the prison as well as some grant funding that had provided him with a laptop so he could have continued his education. It is also important because he had only been in-custody with the Department of Corrections for a approximately two and a half years, yet he compiled the extensive and impressive resume that is recited above. He also had approximately three years of incarceration prior to the time he was sentenced in this case.

Arguments

Basic Term of Imprisonment

This Court reviews "the imposition of the basic sentence de novo for a misapplication of principle." *State v. Schofield* 2006 ME 101 ¶8, 904 A.2d 409, 413. Furthermore, this court reviews "the sentence irrespective of the sentencing court's findings but it is not enough that [this court] might have passed a different sentence, rather it is only when a sentence appears to err in principle that we will alter it." *Id*. (internal quotations and citations omitted). As to the basic term of imprisonment, the trial court must set the basic term "by referring to the nature and seriousness of the crime." *Id*. This "requires the sentencing judge to place a defendant's conduct along a continuum for the type of criminal conduct involved

in order to determine which act justifies the imposition of the most extreme punishment." *State v. Wilson*, 699 A.2d 766, 768 (Me. 1996).

In setting the basic term of imprisonment the Court questioned the Defendant, through counsel, regarding his requested basic term of twelve years. (Sent. T. P. 42-46). During that exchange the Defendant proffered multiple ways in which aggravated drug trafficking could be committed more seriously than the manner in which it was committed here. For example, it could have been done as a purely for-profit enterprise or Mr. Charron could have committed violence during his criminal activities. Furthermore, 17-A MRSA §1105-A on its face contemplates more serious ways that aggravated trafficking could be committed for example by being within 1,000 feet of a school or when the death of another person is caused by the use of a schedule W drug trafficked by the person. *See* 17-A MRSA §1105-A(E) and (K).

A common refrain made by the State is that the Defendant was trafficking in a significant amount of product. However, the State failed to perform a quantitative analysis of the confiscated fentanyl and, as such, the State is completely unable to provide for the potency of the product being sold. As was referenced in the Appellant's sentencing argument, basing Mr. Charron's punishment on the quantity of drugs in his possession (or that he allegedly sold during his criminal episode) without knowing the amount of cutting agent "makes

about as much sense as basing punishment on the weight of the defendant." *United States v. Marshall*, 908 F.2d 1312, 1333 (1990) (Posner, J., dissenting). Furthermore, if the focus is on the quantity the federal system is an apt comparison as its sentencing scheme is largely driven by quantity. Those methods are often criticized because arbitrary factors such as "prosecutorial discretion and incidental details can increase attributed quantities and thus a defendant's offense level" which then in turn raises the final guideline sentence. Dan Honold, *Quantity, Role, and Culpability in the Federal Sentencing Guidelines*, 51 Har. J. on Legis. 390, 4120 (2014).

Lastly, in setting the basic sentence the Court record is devoid of evidence regarding the significance of the amount found in the possession of the Defendant. The Court agreed with the State's argument that "the ultimate amount found in his possession is about 100 times the 6-gram mandatory minimum provision that would give rise to the Class A offense. That is, in the view of the Court, an extreme aggravating factor at the level of the basic sentence." (Sent. T. P. 67). However, as pointed out above since no qualitative analysis was done it is impossible to tell how much of that amount was actually narcotics. Furthermore, the State presented no evidence to corroborate that this was an exceedingly large amount of drugs to be confiscated. If the Court is going base its basic sentence in large part on the amount of drugs found it should be proven with record evidence

that the amount seized was higher or lower than average. This burden should be on the State to prove the above average trafficking amount as they are in a better position to be able to keep such records.

Lastly, the Court stated at the end of its colloquy regarding the maximum sentence that "any victim impact of drug trafficking, the Court has already factored into the basic sentence." However, there was no named victim in the indictment, nor was there any suggestion of a victim in the State's recitation of facts during the plea proceedings. As such, consideration of victim impact was inappropriate as there was no victim.

Post-Arrest Charges as Aggravating Factors

In the second step of the sentencing analysis, courts must determine the maximum period of imprisonment by considering the principles of sentencing set forth in §1501 as well as all other relevant aggravating and mitigating factors. *State v. Reese*, 2010 ME 30, ¶ 19, 991 A.2d 806 (citation omitted). The purpose of the second sentencing step is to allow the sentencing court to appropriately individualize each sentence. *Schofield*, 2006 ME 101, ¶ 13, 904 A.2d at 414 (citation omitted). Aggravating sentencing factors include, *inter alia*, the presence of a prior criminal record, lack of remorse, the need to protect the public, the subjective impact of the crime on the victim, and the existence of factors indicating a likelihood of reoffending. *Schofield*, 2006 ME 101, ¶ 14, 904 A.2d at 414

(citation omitted). Conversely, mitigating sentencing factors include, *inter alia*, a lack of prior criminal conduct, remorse, and any other factor that points to the defendant's favorable prospect of rehabilitation or a lesser likelihood of reoffending. *Id.* In determining the appropriate degree of mitigation or aggravation of the offender's basic period of incarceration, the sentencing court may consider any evidence that is factually reliable and relevant. *State v. Hewey*, 622 A.2d 1151, 1154 (Me. 1993). By this means, the sentencing court determines the maximum period of incarceration. *Id.* In reviewing the maximum sentence this court reviews the trial court's decision "for an abuse of discretion" but it also reviews "the sentencing court's analysis at each step to determine 'whether [it] disregarded the relevant sentencing factors or abused its sentencing power." *State v. Hansen,* 2020 ME 43, 228 A.3d 1082.

The Trial Court in its sentencing decision stated that it "considers that the defendant's post-arrest conduct, *for which he has already been sentenced*, which the Court did not consider at the level of the basic sentence, but the Court concludes that that is an aggravating factor as well." (Sent. T. P. 68-69) (emphasis added). However, consideration of this as an aggravating factor was inappropriate since he had already been sentenced for those crimes and consideration amounts to double-counting. *See State v. Ellis* 2025 ME 56, --- A.3d ---. While post-arrest conduct may sometimes be used to aggravate a sentence it must be used only as

evidence of the defendant's likelihood to reoffend. However, in this case, Mr. Charron's post-arrest conduct all related to substance use, for which there was ample evidence that Mr. Charron had gone above and beyond addressing and thus cannot be credibly argued to be evidence of his likelihood of re-offense.

Application of 17-A MRSA §1125

Additionally, the Court erred in its application of 17-A M.R.S.A. §1125. In analyzing this section the Court found that "in determining the final sentences anyway, and the most important of those purposes of sentencing, in the view of the Court in this case, is providing notice of the nature of sentences that may be imposed. *The others are truly important but not as important as that in the view of the Court.*" (Sent. Tr. P73 L10-15) (emphasis added). The Court inappropriately emphasized this sentencing purpose over others in §1501. This is especially inappropriate in the context of the safety valve provision which by its very nature emphasizes other sentencing purposes such as the minimization of correctional experiences, elimination of inequalities in sentences, and the encouragement of just individualization of sentences. *See generally* 17-A M.R.S.A. §1501.

In so emphasizing notice of the types of sentences to be imposed, the trial court completely ignored the Law Court's recent emphasis of treatment over incarceration as a more effective means of crime control. *State v. Watson*, 2024 ME 24, ¶29 n. 16, 319 A.3d 430. Furthermore, in emphasizing this one factor over

the other the sentencing court created a vicious logical circle from which no future Defendant will be able to pull away from. Emphasizing the nature of the sentences to be imposed the Court *has* to, in this and future cases, minimize the individualization of sentences as the most important factor is sending a messages to future offenders. This also then disincentivizes individuals from active participation in substance treatment and self-improvement because the court has painted itself into a corner by emphasizing this factor above all others. The trial court's decision in this case is likely to have a substantial adverse effect on the treatment of other incarcerated individuals. What incentive do other inmates have to work hard at their recovery, when Mr. Charron who had improved himself in a way "almost unheard of in the experience of the Court" and yet even he fail to qualify for the safety valve under §1125.

It should also be noted that as it relates to cases involving 17-A MRSA §1125, it is the norm to sentence Defendants to at or below the mandatory minimum prescribed by that statute. In fact, from 2015 to 2020, nearly two-thirds of Defendants have been sentenced to four years or below. *See* James Mason, Logan Perkins, David Bate, *A Data-Driven Approach to Sentencing Advocacy,* (2021 MACDL Fall CLE Series Session #6, October 29, 2021). The data shows that a full two thirds of sentences are at or below the mandatory minimum.

To sentence Mr. Charron under the normal four-year mandatory minimum, §1125, sets certain criteria that, if met, reduces the mandatory minimum sentence. Specifically for this case it sets a "minimum term of imprisonment [of] 4 years." However, this court may reduce the mandatory minimum to as little as nine months if it finds by "substantial evidence that

1) Imposition [of the mandatory minimum] will result in substantial injustice to the individual;

2) Failure to impose [the mandatory minimum] will not have an adverse effect on public safety; and

3) Failure to impose [the mandatory minimum] will not appreciably impair the effect of…deterring others from violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A."

Furthermore, the court must also find that Mr. Charron's "background, attitude, and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of [the mandatory minimum] would frustrate the general purpose of sentencing set forth in section 1501."

First, it is unquestioned by criminologists that imposition of a mandatory minimum does nothing in the way of deterrence. "Mandatory penalty laws have not been credibly shown to have a measurable deterrent effect for any, save minor crimes such as speeding or illegal parking or for short-term effects that quickly waste away" Michael Tonry, *The Mostly Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings*, 38 Crime and Justice 65, 68

(2009). Of course, what "two centuries of consistent findings" does show is that mandatory minimums result in "injustices in many cases; and result in wide unwarranted disparities in the handling of similar cases." This finding is supported by "*nearly every authoritative nonpartisan law reform organization that has considered the subject*, including the American Law Institute in the *Model Penal Code* (1962), the American Bar Association in each edition of its Criminal Justice Standards (e.g., 1968, standard 2.3; 1994, standard 18–3.21[b]), the Federal Courts Study Committee (1990), and the U.S. Sentencing Commission (1991)." *Id.* at 66. (emphasis added). While the mandatory minimum statute cannot be ignored by the judiciary, it can be recognized that mandatory minimums do not generally have deterrent effects, often result in injustices, and arbitrary sentencing disparities and thus this factor can be met in the vast majority of cases.

Section 1125(2)(A)(1) also requires that the imposition of the mandatory minimum would "result in substantial injustice to the individual." In this case imposition of the mandatory minimum results in substantial injustice. First, as discussed above, mandatory minimums create disparities in sentences that are unrelated to legitimate criminological goals. Additionally, application in this case works a substantial injustice to Mr. Charron specifically. As noted above, at the time of his sentencing in this matter he had already served three years and still had more time to serve. It was the fact that the State was requesting such a high

sentence in this case that led to the decision not to resolve all of Mr. Charron's cases together which would have likely resulted in concurrent time. Since several of those sentences had already been discharged there was no ability to run the sentence in this matter concurrently.

Finally, the Court must find that failing to impose the mandatory minimum will not have an adverse effect on public safety. In analyzing this, the Court found that "dealing fentanyl is destroying our state. Other than murder, sexual assault, and some other serious offenses, it is probably the greatest public safety problem that we have." However, as it relates to public safety the Sentencing Court's solution to the stated problem flies in the face of logic, research, and this Court's recent precedent:

> The vast weight of research and evidence-based authority supports—as an alternative to incarceration—the use of mental health or medical care, or both, to treat the substance use disorders of those convicted of nonviolent crimes arising from their drug use. "We have known for decades that addiction is a medical condition—a treatable brain disorder—not a character flaw or a form of social deviance." Nora D. Volkow, *Addiction Should Be Treated, Not Penalized*, 46 Neuropsychopharmacology 2048, 2048 (Aug. 2021). A study published in 2018 found that "higher rates of drug imprisonment did not translate into lower rates of drug use, arrests, or overdose deaths." The Pew Charitable Trusts, Issue Brief, *More Imprisonment Does Not Reduce State Drug Problems*, at 5 (Mar. 2018). Drug court programs that incorporate treatment reduce recidivism, significantly decrease substance use among participants, and improve participants' quality of life. Kristen DeVall et al., Nat'l Drug Ct. Res. Ctr., *Painting the Current Picture: A National Report on Treatment Courts in the United States*, at 42-43 (2022). In Maine, the Legislature has authorized the Judicial Branch to "establish substance use disorder treatment programs in the Superior Courts and District Courts" in order to reduce substance use

and dependency, criminal recidivism, and overcrowding in prisons. 4 M.R.S. § 421(1), (2) (2023). The Judicial Branch reported in 2023 that "[d]uring the past twenty-one years of continuous operation, Maine's Treatment Courts have continued to offer a successful, evidence-based approach to the challenge of substance use and crime in the State of Maine." Amanda J. Doherty, State of Maine Judicial Branch, Report to the Joint Standing Committee on Judiciary: 2022 Annual Report on Maine's Drug Treatment Courts, at 19 (Feb. 15, 2023), https://legislature.maine.gov/doc/10024 [https://perma.cc/KPZ6-MGAP]. Internationally, the United Nations Office on Drugs and Crime and World Health Organization have said, "[I]ncarceration has severe negative consequences for people with drug use disorders, their families and their communities, and incarceration can worsen the underlying health and social conditions associated with drug use. ... When a person with a drug use disorder comes into contact with the criminal justice system, it provides an opportunity to encourage that person to receive appropriate treatment." United Nations Office on Drugs and Crime and World Health Organization, *Treatment and Care for People with Drug Use Disorders in Contact with the Criminal Justice System: Alternatives to Conviction or Punishment*, at 2 (2019), https://synthetic%1Fdrugs.unodc.org/uploads/synthetic%1Fdrugs/res/library/treatment_html/Alternatives_to_Conviction_or_Punishment_treatment_and_care_for_people_with_drug_use_disorders_in_contact_with_the_criminal_justice_system_joint_UNODC-WHO.pdf [https://perma.cc/ZSC9-XVJP]. Effective drug dependence treatment is therefore endorsed by these international organizations as an appropriate intervention, including as an alternative to incarceration. *Id.* at 4-12.

State v. Watson, 2024 ME 24, ¶29 n. 16, 319 A.3d 430.

Additionally, there is research to suggest that lengthy prison sentences "*tends to increase [Defendant's] criminality after release*." David Roodman, *The Impacts of Incarceration on Crime*, Open Philanthropy Project, 1 (Sept. 2017) (emphasis added). In fact, "increases in sentences have rarely, if ever, produced the desired reduction in crime rates – a conclusion that is now widely shared among criminal justice system researchers." John M. Darley, *On the Unlikely*

Prospect of Reducing Crime Rates by Increasing the Severity of Prison Sentences, 13 J. L. & Pol'y, 189 (2005). In other words, applying the mandatory minimum had no measurable effect on public safety which means not applying mandatory minimum sentences serves no legitimate criminological goal *and* the legislature gave broad discretion as to what evidence the Judiciary could consider in applying the safety valve. This evidence should include the overwhelming empirical evidence that mandatory minimums are generally detrimental to society.

The Trial Court's Sentence was Imposed Without Due Regard for the Sentencing Factors in 17-A MRSA §1501 and 15 MRSA §2154

The Sentence Review Panel was established "in response to an article by then-Justice Daniel E. Wathen, to authorize appellate review 'to govern the exercise of discretion by the sentencing judge in order to promote uniformity in sentencing." *State v. Watson*, 2024 ME 24, ¶19. That statute provides that this court "must consider (1) the "propriety" of a sentence, with regard to "the nature of the offense, the character of the offender, the protection of the public interest, the effect of the offense on the victim and any other relevant sentencing factors recognized under law," and (2) the "manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based." *Id. See also* 15 M.R.S. § 2155. "In determining whether the sentencing court disregarded the statutory sentencing factors, abused its sentencing power, permitted a manifest and unwarranted inequality among sentences of comparable

offenders, or acted irrationally or unjustly in fashioning a sentence, we afford the trial court considerable discretion." *State v. Hamel*, 2013 ME 16, ¶ 5, 60 A.3d 783.

The general purposes of sentencing, as enacted by the legislature in 17-A MRSA §1501, are to:

1. **Prevent crime.** Prevent crime through the deterrent effect of sentences, the rehabilitation of persons and the restraint of individuals when required in the interest of public safety;
2. **Encourage restitution.** Encourage restitution in all cases in which the victim can be compensated and other purposes of sentencing can be appropriately served;
3. **Minimize correctional experiences.** Minimize correctional experiences that serve to promote further criminality;
4. **Provide notice of nature of sentences that may be imposed.** Give fair warning of the nature of the sentences that may be imposed on the conviction of a crime;
5. **Eliminate inequalities in sentences.** Eliminate inequalities in sentences that are unrelated to legitimate criminological goals;
6. **Encourage just individualization of sentences.** Encourage differentiation among persons with a view to a just individualization of sentences;

7. **Elicit cooperation of individuals through correctional programs.** Promote the development of correctional programs that elicit the cooperation of convicted individuals;

8. **Permit sentences based on factors of crime committed.** Permit sentences that do not diminish the gravity of offenses, with reference to the factors, among others, of:

    A. The age of the victim, particularly of a victim of an advanced age or of a young age who has a reduced ability to self-protect or who suffers more significant harm due to age;

    B. The selection by the person of the victim or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental qdisability, sexual orientation, gender identity or homelessness of the victim or of the owner or occupant of that property; and

    C. The discriminatory motive of the person in making a false public alarm or report in violation of section 509, subsection 1; and

9. **Recognize domestic violence and certified domestic violence intervention programs.** Recognize domestic violence as a serious

> crime against the individual and society and to recognize domestic violence intervention programs certified pursuant to Title 19-A, section 4116 as the most appropriate and effective community intervention in cases involving domestic violence.

17-A M.R.S. § 1501.

The trial court "must consider sentencing goals at each of the steps of the sentencing process and 'articulate which sentencing goals are served by the sentence.'" *Watson supra*. at ¶22 (quoting *State v. Reese*, 2010 ME 30 ¶¶17, 34, 991 A.2d 806). Furthermore, this Court has recognized that "depending on the facts and circumstances presented in an individual case, some goals may or may not be relevant, and some may be in tension with others…because it can be challenging in a given case to reconcile potentially disparate sentencing goals, the trial court is generally afforded 'significant leeway' in determining which factors are considered and the weight a factor is assigned." *Id*. (internal quotation and citations omitted). However, "even though a sentencing court is not required to consider or discuss every argument or factor the defendant raises, it must still 'articulate which goals are served by the sentence' and *must not 'disregard significant and relevant sentencing factors.*" *Id*. (emphasis added).

In this case, the Court articulated that "the most important of those purposes, in the view of the Court in this case, is providing notice of the nature of sentences

that may be imposed." (Sent. T. P. 71). In doing so the Court disregarded significant and relevant factors outside of that one. Additionally, the Court's analysis failed in advancing its stated purpose in any event. First, as noted above, treatment is the most effective way to prevent crime and Mr. Charron has put in tremendous work to prove that he has been successful in treatment. Further, Mr. Charron's criminal history proves that outside of the two to three year period that these crimes took place in, he is no danger to society. Second, the restitution ordered was related to payment of the lab testing not related to any victim.

Third, the Court should have placed significant weight on §1501(3). Since Mr. Charron's had made such progress it should have been a priority to minimize the rest of his correctional experience. Fourth, the Court placed too much emphasis on this factor but also, if the Court was concerned with notice, it should have also been concerned that its sentence in this case might *discourage* others to participate in treatment. Fifth, the Court failed to eliminate inequalities in sentences, as noted at the sentencing hearing, a co-defendant[3] was sentenced to eighteen months of incarceration and no probation. While it was acknowledged at the hearing that a more significant sentence might be warranted for Mr. Charron, the disparity between the two in this case was too great with no legitimate criminological goal.

[3] Mr. Charron and Mr. Ricor's cases were not joined but they were part of the same nexus of facts.

Sixth, the Court failed to appropriately individualize Mr. Charron's sentence. In the Court's own words Mr. Charron was truly unique in his work to improve himself at the prison. The Court appropriately found that the mitigating factors in the case outweighed the aggravating. However, it did not address the significance of Mr. Charron's work when determining the third step of how much time should be suspended. Given Mr. Charron's track record at the prison, the majority of his sentence should have been suspended.

Seventh, the Court's sentence certainly does not promote or encourage the participation in correctional programs. The Court's sentence is likely to do the exact opposite and discourage others from participating in those programs, and in programs pretrial if they are released into the community. Lastly, a significant, but appropriately suspended sentence, would not diminish the gravity of the offense while at the same time would recognize the progress Mr. Charron had made.

As the analysis above suggests, the Court's overemphasis of the fifth factor led it to ignore the other factors all of which support a lesser sentence for Mr. Charron. It should also be noted as it relates to reducing inequalities in sentences unrelated to legitimate criminological goals. In the above referenced case of SOMCD-CR-2022-186 Mr. Charron was, in that case, originally charged with Aggravated Trafficking in Scheduled Drugs which was then dismissed in exchange for a plea to a Class B Trafficking in Scheduled Drugs and sentenced to three

years. Obviously, the charge Mr. Charron was convicted of in this matter was of a higher classification, however, in this case he was sentenced to five times the maximum sentence that was imposed in the Somerset County case. Such a difference in sentence is unjustified given the immense progress made by Mr. Charron while at the department of correctrions.

Conclusion

The Trial Court made multiple and significant errors in its application of the sentencing procedure. The Court erred in setting the basic sentence at twenty-five years and by considering post-arrest convictions as an aggravating factor. Furthermore, Mr. Charron had undisputedly made significant progress in his battle with substance abuse and had made huge strides in his self-improvement while at the Department of Corrections. The Court failed to give appropriate weight to that evidence in denying the request for the safety valve provision under §1125. Lastly, the Court failed to appropriately apply the sentencing factors as a whole in its sentencing decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Daniel A. Wentworth, counsel for the Appellant, hereby certify that I have delivered in-hand two true copies of the Appellee's Brief to the State through AAG Darcy Mitchell.

August 25, 2025
Date

Daniel A. Wentworth, Esq.