

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Docket No. CUM-2025-454

STATE OF MAINE,
Appellee,

- against -

ABDIHAMIT ALI,
Appellant

Appeal from the Unified Criminal Docket
for the County of Cumberland and State of Maine

Reply Brief of the Appellant

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Argument

“The State is asking for the Court to reimpose the exact same sentence, doing the exact same analysis that it did back at the original sentencing this case.” ((Tr. 9/17/2025 p. 2). That was the State’s position back in September when it appeared on the resentencing. The Trial Court agreed with the State’s position ruling that it “maintain[ed] the same analysis” that it had done in its original sentence. (Tr. 9/17/2025 p. 21). The State’s position now is that “the trial court properly conducted a new sentencing hearing and after hearing, found that its original sentencing analysis remained unchanged, imposing the same sentence as it originally imposed. They also argue that “there is no such requirement for the trial court to take into consideration any of the new information which had no bearing on the sentencing factors present at the time of the original sentencing” and thus “there was no error.” (Appellee’s Br. P. 6).

However, despite that position they correctly point out that “resentencing *requires* ‘a new sentencing proceedings at which both parties could be heard’ *where the trial court must conduct a new sentencing analysis.*” *Id.* at 8. (emphasis added). This correct statement of law is directly contradicted by its stated position that the court need not consider any new information presented to it. A new hearing requires the consideration of new evidence that may not have been known

to the Court at the time of the original sentence. Despite the State's argument that "the trial court found that...the evidence presented at the hearing was proof the original sentence was appropriate" which "clearly indicat[es] that the trial court considered the [new information]." *Id.* In so arguing, the Appellee conveniently ignores what the Court said just a few sentences earlier: "I maintain the same analysis that I did years ago when I first sentence[d] you. *Because that's what is mandated here.*" (Tr. 9/17/2025 p. 21) (emphasis added). The Trial Court clearly ruled that it was not allowed to consider the new information and was actually mandated by this Court to ignore that information. Which, as discussed in the Appellant's initial brief is a clear error of law and an abuse of discretion.

Assuming, *arguendo*, that the Court did consider the new information presented at the sentencing hearing, the Trial Court's *Hewey* analysis was woefully insufficient. This Court has emphasized "the desirability of a clear articulation by the trial court of its compliance with the three-step procedure." *State v. Hewey*, 622 A.2d 1151, 1155 (Me. 1993). *See also State v. Merchant*, 2026 ME 17, --- A.3d --- (Me. 2026). (finding that the Trial Court abused its sentencing power by failing to conduct a separate *Hewey* analysis on another primary count).

Here as articulated in the Appellant's initial brief there are significant legal and factual issues that suggest, had the Court conducted a new analysis, there should have been a lesser sentence. However, the Court failed to articulate why

the new information still led to the same sentence as imposed before. Perhaps the Court had cognizable and legitimate reasons for the imposition of the same sentence. However, because the Court failed to articulate those reasons it leaves this record unable to perform meaningful appellate review on those reasons.

Furthermore, the Appellee's reliance on *State v. Violette* is misplaced for two reasons as it 1) misinterprets the rule set for in that case and 2) that case supports the Defendant's position. *State v. Violette*, 574 A.2d 1359 (Me. 1990). The Appellee argues that "an increased sentence after a resentencing hearing can only be based on recidivism of the Defendant That case reaffirmed its decision in *State v. Weeks* which itself adopted a federal constitutional standard set forth in *North Carolina v. Pearce*, 395 U.S. 711 (1969). See *State v. Weeks*, 267 A.2d 641 (Me. 1970). In that case the Law Court "summarized the *Pearce* rule as follows:

- (1) due process of law requires that vindictiveness against a defendant for having successfully attacked his first conviction must play no part in the sentence he receives after a new trial upon reconviction;
- (2) to assure the absence of any such motivation of vindictiveness, the reasons underlying the giving of a more severe sentence upon a defendant after a new trial and upon resentence must affirmatively appear of record; and
- (3) those reasons must be based on objective information concerning identifiable conduct on the part of the defendant occurring after the time of the original sentencing proceeding.

Unlike the Appellee's interpretation the rule set in *Violette* does not require conviction but rather "identifiable conduct" subsequent to the original sentencing hearing. It would be the height of absurdity and unconstitutionality to rule that

aggravating factors such could be used to heighten the sentence of a defendant after an appellate victory but not the inverse.

The Appellant maintains the position that given an appropriate application of the *Hewey* factors would compel a lesser sentence than was ordered here. The Trial Court could not rely solely on its prior analysis as there were new facts and law that it needed to grapple with. *State v. Ellis* provided that the Court's original analysis was flawed with respect to acceptance of responsibility *and* the Court made contrary factual findings at the September hearing. *See State v. Ellis* 2025 ME 56. The programing and work that Mr. Ali had completed while incarcerated is new information informing both mitigating factors in step two and informs how much of the sentence needed to be suspended.

Lastly, the Appellee's brief state's that "to the extent that the appellant challenges the propriety of the sentence, that issue is not properly before the Court in this appeal and therefore will not be addressed here." (Appellee's Br. P. 10 n. 3). However, the Sentence Review Panel on December 5, 2025, granted his request for leave to appeal the sentence under 15 M.R.S. §§2151-5157. As such, "in reviewing a criminal sentence, the Supreme Judicial Court *shall* consider...the propriety of the sentence." 15 M.R.S. §2155. As such, this Court is not only free to consider the propriety of the sentence, but is statutorily required to consider it

The Trial Court relied solely on its prior analysis which obviously didn't consider those facts and law which had occurred subsequently. The Court also gave no reason as to why the new information did not move its original sentence. The Court did articulate some facts, but the facts it articulated suggested the sentenced should be lower. As such, the Court's process in how it arrived at the same sentence was completely opaque. The reality is the Court did not hold a new sentencing hearing. The information presented by the Defendant and arguments made by counsel were an offer of proof for appellate review. The Court rejected its arguments and did not consider the new information. This was not just clear error but an abuse of discretion that mandates reversal by this Court.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I, Daniel A. Wentworth, counsel for the Appellant, hereby certify that I have delivered via email copies of the Appellant's Brief to the State through AAG Jennifer Ackerman and ADA Kristen Hughes. Once approved, I hereby certify that two true copies will be delivered to the State by either in hand deliver or certified mail.

April 9, 2026
Date



Daniel A. Wentworth, Esq.