

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision: 2026 ME 99
Docket: Pis-25-160
Argued: February 3, 2026
Decided: September 17, 2026

Panel: STANFILL, C.J., and MEAD, CONNORS, LAWRENCE, DOUGLAS, and LIPEZ, JJ.
Majority: STANFILL, C.J., and MEAD, CONNORS, LAWRENCE, DOUGLAS, and LIPEZ, JJ.
Concurrence: STANFILL, C.J.

STATE OF MAINE

v.

WILLIAM BRADBURY

LAWRENCE, J.

[¶1] William Bradbury appeals from a judgment of conviction of one count of unlawful sexual touching (Class D), 17-A M.R.S. § 260(1)(A) (2023),¹ and two counts of indecent conduct (Class E), 17-A M.R.S. § 854 (2026), entered by the trial court (Piscataquis County, *Haddow, J.*) after a jury trial. Bradbury argues that (1) there was insufficient evidence of two of the required elements of unlawful sexual touching—the victim’s lack of acquiescence and his criminal negligence with regard to the victim’s lack of acquiescence—to support his

¹ Because 17-A M.R.S. § 260(1)(A) has been amended since the date of the crime, P.L. 2023 ch. 280, § 5 (effective Oct. 25, 2023) (codified at 17-A M.R.S. § 260(1)(A) (2026)), we cite the statute that was in effect when Bradbury committed the crime. This amendment changed the language of the statute from “has not expressly or impliedly acquiesced in,” which is at issue in this appeal, to “has not consented to.” To this end, the Legislature defined “consent” to mean “a word or action by a person that indicates a freely given agreement.” P.L. 2023, ch. 280, § 1 (effective Oct. 25, 2023) (codified at 17-A M.R.S. § 251(E-1) (2026)).

conviction; and (2) the trial court abused its discretion by allowing the State to use evidence that it had not timely provided to Bradbury in discovery for the purposes of cross-examining Bradbury at trial. Contrary to Bradbury's contentions, there was sufficient evidence presented at trial to sustain his conviction for unlawful sexual touching. As to his second argument, we agree that the State's conduct in this case is concerning; however, we conclude that the trial court did not abuse its discretion when it permitted the State to use the late-disclosed evidence in cross-examining Bradbury. Although we remand the matter to correct a clerical error in the written judgment and commitment, we otherwise affirm the judgment.

I. BACKGROUND

A. Factual Background

[¶2] Viewing the evidence admitted at trial in the light most favorable to the State, the jury rationally could have found the following facts beyond a reasonable doubt. *See, e.g., State v. Russell*, 2023 ME 64, ¶ 5, 303 A.3d 640.

[¶3] In the summer of 2023, two sisters, one thirteen or fourteen years old and one sixteen years old at the time, lived on the same road as Bradbury. During that summer, the sisters would go swimming in the Piscataquis River, and to get there, they would walk towards the end of the road their family lived

on. Bradbury lived at the end of the road by the river. The swimming area near where Bradbury lived was sandy and easier to access than other areas the sisters sometimes used for swimming.

[¶4] When the sisters went swimming, Bradbury would go down to the area where they were and watch them. On at least two occasions while Bradbury watched the sisters, he exposed his genitals to the sisters. While swimming, the sisters could see Bradbury's genitals as he was standing on the shore. Bradbury would also masturbate while the sisters were by the river. At other times, he showed the sisters sexually explicit photos and videos of himself. When he did this, the sisters would stay silent and try to ignore him.

[¶5] Throughout that summer, the sisters would go with their family to Bradbury's house for barbecues. At one of the barbecues, the younger sister fell asleep at Bradbury's home. At the time, the family and Bradbury were good friends, and the sisters' mother felt comfortable leaving the younger sister to sleep on Bradbury's couch while the rest of the family went home. While the younger sister was sleeping, Bradbury started touching her. When the younger sister began to wake up, she felt Bradbury pull down her shirt and put his mouth on her breast and could feel wetness on her breast. She was half asleep and her eyes were still closed while this was occurring. When the younger

sister opened her eyes, she saw Bradbury standing near the couch she was sleeping on, facing her, and masturbating. She could see Bradbury's genitals. Bradbury and the younger sister were the only two people at Bradbury's home when she woke up. The younger sister then stood up and told Bradbury that she was leaving. Bradbury backed up, stared at her, and told her he would give her a ride home because he had told her mother that he would. Bradbury drove the younger sister home, and she sat in the back seat of the car so he could not touch her. This episode occurred after at least one prior incident during which Bradbury engaged in inappropriate conduct of a sexual nature in the sisters' presence.

B. Procedural History

[¶6] In May 2024, the State charged Bradbury with six offenses, including two counts of unlawful sexual touching (Class D), 17-A M.R.S. § 260(1)(A) (Counts 1 and 2), and four counts of indecent conduct (Class E), 17-A M.R.S. § 854(1)(B)-(C) (Counts 3, 4, 5, and 6). Count 1 alleged unlawful sexual touching of the older sister, and Count 2 alleged unlawful sexual touching of the younger sister. Bradbury entered a plea of not guilty to all counts, and the case proceeded to trial.

[¶7] The court held a two-day jury trial on March 19 and 20, 2025. Before trial began, Bradbury’s counsel indicated that he believed that Bradbury would testify in his own defense. Toward the end of the first day of trial but before the State rested, Bradbury’s counsel again indicated that Bradbury was likely going to testify. The State later rested, and Bradbury made a motion for acquittal as to Count 2, the charge of unlawful sexual touching of the younger sister. *See* M.R.U. Crim. P. 29(a). Bradbury argued that the younger sister testified that she was not touched. The court denied Bradbury’s motion. At the end of the first day of trial, the parties and court agreed to merge the counts charging indecent conduct by merging Count 3 with Count 5 and Count 4 with Count 6.

[¶8] Before resuming the trial on the second day, when Bradbury was expected to testify, the State approached Bradbury’s counsel with several images from Bradbury’s phone that it had obtained through an executed search warrant. Some of the images were sexually explicit images of Bradbury.² The images were part of a 3,200-page comprehensive report that the State had provided to Bradbury as part of discovery on March 7, 2025—twelve days before the trial was set to begin. The State did not seek to introduce the images

² The images were stills of the short videos that Bradbury had on his phone.

in its case-in-chief because the discovery was late. Instead, the State wanted to reserve the right to offer the images only during cross-examination of Bradbury for impeachment purposes. Bradbury moved for the complete exclusion of the images as a sanction for the discovery violation.

[¶9] The court denied Bradbury's motion to exclude the images, agreeing that the State could use them during the cross-examination of Bradbury because they were relevant and came from his phone, a source familiar to him. Therefore, the court concluded that the images would be admitted in evidence in line with the State's plan to introduce them if Bradbury elected to testify. After conferring with defense counsel and engaging in a colloquy with the court, Bradbury chose not to testify and rested.

[¶10] The court then instructed the jury on the law of unlawful sexual touching and indecent conduct, explaining that there are multiple ways the crime of indecent conduct may be committed and grouping Count 3 with Count 5 and Count 4 with Count 6 in its instructions. Before releasing the jury to deliberate, the court reviewed the verdict form, grouping Count 3 with Count 5 and Count 4 with Count 6 on the verdict form because they occurred during the same time frame, and instructing the jury to return a single verdict on each

pair of charges.³ After deliberating, the jury found Bradbury guilty on Count 2, on merged Counts 3 and 5, and on merged Counts 4 and 6, but could not reach a verdict on Count 1. With Bradbury's consent, the State dismissed Count 1, unlawful sexual touching against the older sister, and the court proceeded to sentencing.

[¶11] The court sentenced Bradbury to six months of imprisonment on Count 2, "and on the remaining counts[,] concurrent sentences of 60 days [of imprisonment]." The judgment and commitment and docket record reflect that the "remaining counts" were Counts 3, 4, 5, and 6 and that the sixty days of imprisonment was imposed on each count to be served concurrently with Count 2.⁴ The court stayed Bradbury's sentence pending appeal, and Bradbury timely filed a notice of appeal. M.R. App. P. 2B(b)(1); 15 M.R.S. § 2115 (2026).

³ The court stated that "on Counts [3] and [5], it's during the same time frame, but different parts of the indecent conduct law. And if you were to . . . find not guilty on both, you would check not guilty. If you find . . . guilty on both, you would find guilty. But if you find guilty on either one, you would check guilty, and it's the same thing with Counts [4] and [6]."

⁴ Where, as here, there is an inconsistency between the oral pronouncement of a defendant's sentence and the written judgment and commitment, the oral pronouncement of the sentence controls, and we will uphold "the actual decision made by the sentencing court notwithstanding any inaccuracy reflected in the written judgment." *State v. Hutchinson*, 593 A.2d 666, 667 (Me. 1991). The judgment and commitment form indicating convictions on Counts 3, 4, 5, and 6 must be corrected to reflect a single conviction and sentence on merged Counts 3 and 5, and another single conviction and sentence on merged Counts 4 and 6, to avoid a violation of Bradbury's right against double jeopardy. See M.R.U. Crim. P. 50; *State v. Fleury*, 2025 ME 18, ¶ 14, 331 A.3d 414.

II. DISCUSSION

A. Sufficiency of the Evidence

[¶12] Bradbury argues that the evidence presented at trial was insufficient to establish that the younger sister did not expressly or impliedly acquiesce to the sexual touching, and that even if there was a lack of acquiescence, it was so imperceptible that it could not constitute a gross deviation from what a reasonable person would have understood from the younger sister's conduct.

[¶13] “When reviewing a challenge to the sufficiency of the evidence supporting a conviction, we view the evidence presented at trial in the light most favorable to the verdict to determine whether any trier of fact rationally could find beyond a reasonable doubt every element of the offense charged.” *State v. DesRosiers*, 2024 ME 77, ¶ 21, 327 A.3d 64 (quotation marks omitted).

[¶14] To convict a person of unlawful sexual touching under the version of the statute in effect at the time of Bradbury's conduct, the State was required to prove beyond a reasonable doubt that (1) the actor intentionally subjected another person to “any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire,” (2) the other person had “not expressly or impliedly acquiesced” to the

sexual touching, and (3) the actor “fail[ed] to be aware of a risk” regarding “whether the other person ha[d] acquiesced.” 17-A M.R.S. § 260(1)(A); 17-A M.R.S. §§ 35(4)(B), 251(1)(G) (2026). “[T]he failure to be aware 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. § 35(4)(C).

[¶15] The record contains sufficient evidence for the jury to rationally find each element of unlawful sexual touching, 17-A M.R.S. § 260(1)(A), beyond a reasonable doubt. The jury was presented with evidence at trial of a thirteen- or fourteen-year-old child who fell asleep and was left alone at the home of a sixty-two-year-old adult—a home she never went to alone—after she went to his home with her entire family for a barbecue. The younger sister did not remain at Bradbury’s home voluntarily; she fell asleep and was never awakened to be asked whether she wanted to leave with her family. She was first asleep and then half asleep when Bradbury began sexually touching her breast, and she could eventually feel wetness on her breast from where Bradbury had put his mouth while her eyes were still closed. She never expressed any consent to the touching. This conduct occurred at Bradbury’s

home after at least one incident by the river during which Bradbury had exposed his genitals to the sisters. During this episode, they ignored Bradbury and waited for him to leave before walking up from the river to avoid any interaction with him. The general circumstances of Bradbury's prior encounters with the sisters near the river together with his conduct involving the younger sister in his home paint a picture from which a jury could reasonably infer beyond a reasonable doubt both that there was a lack of acquiescence by the younger sister and that Bradbury was criminally negligent regarding the lack of acquiescence by the younger sister.⁵

B. Discovery Sanction

[¶16] Bradbury argues that the trial court's approval of the State's use of the late discovery for impeachment only was an abuse of discretion and thus deprived him of a fair trial. Despite arguing to the contrary in its briefing, the State conceded at oral argument that there was a discovery violation. The State has a duty under Maine Rule of Unified Criminal Procedure 16 to automatically provide Bradbury "any . . . electronically stored information, [and] photographs

⁵ Bradbury's argument that a lack of objection or resistance to sexual touching equates to acquiescence is unpersuasive. A lack of acquiescence does not require an express protest to sexual touching. Instead, the statute prescribes that the lack of acquiescence can be implied, which means in certain circumstances a lack of acquiescence can be deduced without the victim rejecting or resisting, making the context just as important as what a victim did or did not do in certain circumstances. *See* 17-A M.R.S. § 260(1)(A).

(including motion pictures and video tapes) . . . that the attorney for the State intends to use as evidence in any proceeding or *that were obtained or belong to the defendant.*” M.R.U. Crim. P. 16(a)(1), (2)(F) (emphasis added). The contents of Bradbury’s cell phone, obtained from an executed search warrant, undoubtably fall within that category, and thus the State was required to disclose them no later than seven days after Bradbury entered a not guilty plea or within fourteen days after the material came within the possession or control of the attorney for the State. M.R.U. Crim. P. 16(b)(2), (5). The State provided the automatically discoverable information many months later, in March 2025, which was a clear discovery violation.⁶

[¶17] The State, on its own accord, elected not to use the evidence in its case-in-chief but instead sought to utilize it for impeachment during

⁶ Although we conclude that the court did not abuse its discretion, *see infra* ¶ 21, the State’s belated effort to look for additional discovery only as trial neared is nonetheless problematic. The State had a duty to make a diligent inquiry to determine whether any automatically discoverable information existed within their files, which includes law enforcement’s files. *See* M.R.U. Crim. P. 16(a)(1); *State v. Hassan*, 2018 ME 22, ¶ 19, 179 A.3d 898; *State v. Poulin*, 2016 ME 110, ¶ 18, 144 A.3d 574. Despite this duty, the State made no such effort to comply with its obligation, and it knew, or at least should have known, that a search warrant had been executed, and it should have reviewed the results of the search in order to ensure that it complied with the requirements of Rule 16. Instead, it waited until it was preparing for trial—nearly ten months after Bradbury was originally charged—and provided automatically discoverable information to Bradbury just twelve days prior to trial. This violation frustrated the purposes of discovery. *See Poulin*, 2016 ME 110, ¶ 29, 144 A.3d 574 (“The purposes of Rule 16 are to enhance the quality of the pretrial preparation of both the prosecution and defense and diminish the element of unfair surprise at trial, *all to the end of making the result of criminal trials depend on the merits of the case* rather than on the demerits of lawyer performance on one side or the other.” (alterations and quotation marks omitted)).

cross-examination of Bradbury. The court found that there was no bad faith on the part of the State and no undue or unfair prejudice in allowing the State to use the evidence only for impeachment if Bradbury elected to testify.

[¶18] Although the discovery sanction at issue was proposed by the State, it was approved by the court and so we review it as a court-ordered sanction for an abuse of discretion. *See State v. Poulin*, 2016 ME 110, ¶ 28, 144 A.3d 574.

[¶19] “We look for a prejudicial effect on the defendant as a result of the discovery violation, as mitigated—or not—by the trial court’s ruling. When a defendant contends that a discovery violation and the court’s response to it violated his or her right to a fair trial, we review the trial court’s procedural ruling to determine whether the process struck a balance between competing concerns that was fundamentally fair.” *Id.* (citation and quotation marks omitted). Sanctions for discovery violations “should be tailored to the individual circumstances of each case, with a focus on fairness and justice.” *State v. Reed-Hansen*, 2019 ME 58, ¶ 10, 207 A.3d 191.

[¶20] We have examined sanctions for late discovery before. *See State v. Page*, 2023 ME 73, ¶¶ 13-17, 306 A.3d 142; *State v. Matatall*, 2018 ME 155, ¶¶ 7-10, 196 A.3d 1293; *Poulin*, 2016 ME 110, ¶¶ 25-34, 144 A.3d 574. In *State*

v. Poulin, we concluded that the State’s discovery violation had no prejudicial effect upon the defendant and that allowing late discovery in evidence for the limited purpose of impeachment “struck a balance between competing interests that was fundamentally fair.” 2016 ME 110, ¶ 29, 144 A.3d 574. We reasoned that the trial court “did not violate Poulin’s right to a fair trial when it declined to permit him to use the State’s violation of Rule 16 as a shield against the admission of probative evidence of guilt, were he to elicit testimony in conflict with that evidence.” *Id.* ¶ 34. Likewise, in *State v. Page*, we held that the trial court’s decision to admit evidence that was provided late for the limited purpose of rebutting evidence presented or arguments made by the defendant struck a fair balance between “the unfairness of the State’s late discovery with the need to prevent Page from presenting a completely sanitized defense.” 2023 ME 73, ¶¶ 8, 17, 306 A.3d 142; *see also Matatall*, 2018 ME 155, ¶¶ 7-10, 196 A.3d 1293 (reasoning that a defendant cannot use a discovery violation as a shield to exclude evidence when the defendant chooses to testify in direct contradiction to such evidence).

[¶21] Here, the trial court’s ruling allowed for a result that fairly struck a balance between competing interests. Bradbury sought the complete exclusion of the images as a sanction for the late discovery. Permitting the use

of the images only for impeachment is consistent with our prior cases. As we reasoned in *Poulin* and *Page*, complete exclusion of the images would have allowed Bradbury to shield himself from being confronted with the nude images that corroborated the sisters' testimony that he showed them videos of his genitals and their testimony describing those videos. The sanction struck the balance between any unfairness to Bradbury because of the late discovery production and the State's interest in being able to impeach Bradbury during cross-examination, especially when there was no bad faith. Therefore, the court did not abuse its discretion by imposing a sanction that limited the State's introduction of evidence produced late in discovery while also preventing Bradbury from completely shielding himself from challenges to his testimony about the images and videos, promoting both fairness and justice.

[¶22] Although we do not determine that the sanction imposed by the court for the late discovery was an abuse of discretion in the particular circumstances presented here, the State's conduct was, as we have noted, problematic. *See supra* n.6. The same conduct in different circumstances could yield a different result, where the State's proposal adopted by the court here—to limit the use of late-discovered evidence to impeachment purposes—may not prove to be sufficient. Despite these serious concerns, however, the overall

limitation on the use of the late discovery as applied here is ultimately consistent with our case law to date and did not deprive Bradbury of a fair trial.

III. CONCLUSION

[¶23] There is sufficient evidence from which the jury could find Bradbury guilty beyond a reasonable doubt of unlawful sexual touching of the younger sister based on the circumstances and events that occurred while at his home. Moreover, the court did not abuse its discretion by denying Bradbury's motion for sanctions due to the State's discovery violation. Although we affirm the judgment, we note the clerical error in the judgment and commitment imposing sentences on counts that were properly merged prior to sentencing and require correction of the judgment and commitment.⁷

The entry is:

Remanded to the trial court to correct the judgment and commitment form and the docket entries to properly reflect the merger of Count 3

⁷ We also note that the docket record does not reflect that any of the counts were merged for sentencing. This error should also be corrected upon remand.

with Count 5 and Count 4 with Count 6. As corrected, judgment affirmed.

STANFILL, C.J., concurring.

[¶24] I agree with the Opinion of the Court. I write separately, however, to express my increasing alarm at the frequency with which the State of Maine is violating its simplest discovery obligations. *See, e.g., State v. Johnson*, 2026 ME 87, --- A.3d ---; *State v. Pelletier*, 2023 ME 74, 306 A.3d 614; *State v. Page*, 2023 ME 73, 306 A.3d 142; *State v. Reed-Hansen*, 2019 ME 58, 207 A.3d 191. I am particularly concerned that on appeal the State—until pressed by this Court at oral argument and contrary to long-standing rules and precedent—asserted that it did not violate its discovery obligations because the material was in possession of law enforcement and not the District Attorney’s office. *See, e.g., State v. Robbins*, 1997 ME 21, ¶ 7, 689 A.2d 603; *Strickler v. Greene*, 527 U.S. 263, 280-82, 282 n.21 (1999); *State v. Eldridge*, 412 A.2d 62, 67 (Me. 1980). I understand that many District Attorney’s offices are understaffed. I also know that the vast majority of Maine’s prosecutors are acting in good faith. Nonetheless, “when, as here and all too often, new information is obtained on the eve of trial,” defendants are increasingly at risk of being unfairly

surprised and prejudiced. *State v. Dennis*, 2024 ME 54, ¶ 35, 320 A.3d 396 (Stanfill, C.J., concurring) (footnote omitted). The State must do better.

Rory A. McNamara, Esq. (orally), Drake Law LLC, York, for appellant William Bradbury

R. Christopher Almy, District Attorney, and Eugene Abramov, Stud. Atty. (orally), Prosecutorial District 5, Bangor, for appellee State of Maine

Piscataquis County Unified Criminal Docket docket number CR-2024-164
FOR CLERK REFERENCE ONLY