

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	)	
	)	
v.	)	ID No. 2506006677
	)	
JASHAUN JOHNSON,	)	
	)	
Defendant.	)	

Submitted: August 14, 2026
Decided: September 4, 2026

MEMORANDUM OPINION AND ORDER

Upon Defendant's Motion to Sever

DENIED

Zachary A. George, Esquire, George & Vyas LLC, Dover, Delaware, *Attorney for Defendant*

Jenna Milecki, Esquire, Deputy Attorney General, Department of Justice, Dover, Delaware, *Attorney for the State*

Primos, J.

Defendant Jashaun Johnson moves to sever his stalking charge under 11 *Del. C. § 1312* from three charges arising from the alleged shooting of Semaj Eley. Because the charges are properly joined and Defendant has not shown a reasonable probability of substantial prejudice, Defendant's Motion to Sever is **DENIED**.

FACTUAL AND PROCEDURAL BACKGROUND

I. Factual Background

The State alleges that on June 7, 2025, Aynasti Bowden ("Bowden") was entering through the rear door of her apartment when Jashaun Johnson ("Defendant"), Bowden's former boyfriend, grabbed her in a bear hug.¹ During that encounter, Bowden allegedly saw the stock of a firearm fall out of Defendant's backpack.² According to Bowden, Defendant fled after Bowden positioned herself in view of a security camera.³

On the morning of June 19, 2025, Defendant allegedly entered Bowden's apartment without permission, prompting Bowden to call 911, after which Defendant left.⁴ According to the State, surveillance footage showed a Ford Focus drop off an individual matching Defendant's description at Bowden's apartment complex at 9:08 a.m. on June 19, 2025, shortly before Bowden's call to 911, leave at 9:15 a.m., and return to the complex at 9:32 a.m.⁵

Beginning at 9:18 a.m., Defendant sent Bowden a series of text messages appearing to complain that she had called the police, expressing anger about her relationship with her then-current boyfriend, Semaj Eley ("Eley"), and accusing

¹ State's Resp. to the Def.'s Mot. to Sever ¶ 9 (D.I. 33). Citations in the form of "D.I. ____" refer to docket items.

² *Id.*

³ *Id.*

⁴ *Id.* at ¶¶ 1, 8.

⁵ *Id.* at ¶ 5.

Bowden of allowing Eley to stay at her apartment and of having relations with him.⁶ Defendant allegedly called Bowden repeatedly until approximately 11:00 a.m. before sending her a text message at approximately 11:05 a.m. stating, “tell [my daughter] I love her.”⁷

At approximately 11:11 a.m., surveillance footage captured Eley and an associate, Kyan Young (“Young”), arriving at Bowden’s apartment complex and approaching Bowden’s apartment.⁸ Eley reported that an unidentified individual waiting in the stairwell of the complex ambushed him and Young, shooting Eley multiple times.⁹ According to the State, additional surveillance footage shows an individual matching Defendant’s description leaving the complex immediately after the shooting, and text messages between the Defendant and the driver of the Ford Focus, the driver’s account, and Defendant’s cellular-location data place Defendant at the complex during the relevant period.¹⁰

II. Procedural History and the Parties’ Arguments

On February 2, 2026, a grand jury indicted Defendant on one count of Attempted Murder First Degree, naming Eley as the victim; one count of Possession of a Firearm During the Commission of a Felony; one count of Stalking, naming Bowden as the victim; and one count of Criminal Mischief.¹¹

Defendant filed the instant Motion to Sever on July 20, 2026.¹² In it, Defendant seeks to sever Counts 1, 2, and 4—the charges relating to the shooting—from Count 3, Stalking, for trial before separate juries under Superior Court Criminal

⁶ *Id.* at ¶ 8.

⁷ State’s Resp. to the Def.’s Mot. to Sever ¶¶ 3, 8 (D.I. 33).

⁸ *Id.* at ¶ 4; *see* Mot. to Sever Offenses ¶ 1 (D.I. 28).

⁹ State’s Resp. to the Def.’s Mot. to Sever ¶ 4 (D.I. 33).

¹⁰ *Id.* at ¶¶ 5–7.

¹¹ D.I. 5.

¹² D.I. 28.

Rules 8 and 14.¹³ Defendant argues that the shooting and stalking charges concern different conduct, methods, and victims, and that a joint trial would permit the jury to cumulate the evidence or use the relationship evidence underlying the stalking charge to infer a general criminal disposition.¹⁴ Defendant further contends that, in separate trials, the evidence supporting either group of charges would be inadmissible in the trial of the other under the Delaware Supreme Court's decisions in *Deshields v. State*¹⁵ and *Getz v. State*^{16, 17}

The State filed its response on August 8, 2026.¹⁸ The State argues that the stalking evidence is independently relevant to the shooting charges because it tends to establish Defendant's motive, intent, plan, and identity, and because the messages immediately preceding the shooting supply context for Defendant's alleged presence at Bowden's apartment complex.¹⁹ More importantly, the State argues that the shooting of Eley is itself one of the incidents comprising the course of conduct it must prove to establish the stalking charge under 11 *Del. C.* § 1312.²⁰

The Court heard oral argument on the Defendant's Motion to Sever on August 14, 2026, and took the matter under advisement.²¹

LEGAL STANDARD

Defendant's motion to sever is governed by Superior Court Criminal Rules 8(a) and 14. Rule 8(a) provides as follows:

¹³ Mot. to Sever Offenses 1 (D.I. 28).

¹⁴ *Id.* at ¶¶ 7–8.

¹⁵ 706 A.2d 502, 506–08 (Del. 1998).

¹⁶ 538 A.2d 726, 730–34 (Del. 1988).

¹⁷ Mot. to Sever Offenses ¶¶ 9–10 (D.I. 28).

¹⁸ D.I. 33.

¹⁹ State's Resp. to the Def.'s Mot. to Sever ¶ 15 (D.I. 33).

²⁰ *Id.* at ¶ 16.

²¹ D.I. 36.

Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

“The joinder of charges under . . . Rule 8(a) is designed to promote judicial economy by permitting the State to try related charges together.”²²

Rule 14 protects defendants’ countervailing interests by permitting the Court to order separate trials “[i]f it appears that a defendant . . . is prejudiced by joinder.”²³ “In determining whether joinder is proper, ‘Superior Court Criminal Rules 8 and 14 must be read together.’”²⁴ In other words, “[t]he rule of joinder is designed to promote judicial economy and efficiency, as long as the defendant’s rights are not compromised.”²⁵

The critical question for severance under Rule 14 is whether Defendant has shown that there is a reasonable probability that he would be substantially prejudiced by joinder, or whether his claims of such prejudice are instead conclusory²⁶ or hypothetical.²⁷ Delaware law recognizes that prejudice can arise when: (1) the jury might “cumulate the evidence of various crimes charged” to find guilt when it would not find such guilt had the crimes been considered separately; (2) the jury could infer a “general criminal disposition” from one of the crimes to convict the defendant of

²² *Gibson v. State*, 341 A.3d 512 (TABLE), 2025 WL 1514413, at *7 (Del. May 28, 2025) (quoting *Caldwell v. State*, 780 A.2d 1037, 1054–55 (Del. 2001)).

²³ Super. Ct. Crim. R. 14.

²⁴ *Gibson*, 2025 WL 1514413, at *7 (quoting *Jackson v. State*, 990 A.2d 1281, 1286 (Del. 2009)).

²⁵ *Id.* (quoting *Jackson*, 990 A.2d at 1286).

²⁶ *Id.* at *9.

²⁷ *Skinner v. State*, 575 A.2d 1108, 1118 (Del. 1990) (“As a general rule, it may be said that [the trial court’s] discretion has been abused by denial [of a motion to sever] when there is a reasonable probability that substantial prejudice may result from a joint trial. The defendant has the burden of demonstrating such prejudice and mere hypothetical prejudice is not sufficient.” (citing *Bates v. State*, 386 A.2d 1139, 1141–42 (Del. 1978))).

one of the others; or (3) when “the defendant might be subject to embarrassment or confusion in presenting different and separate defenses to different charges.”²⁸ In evaluating prejudice, “[a]dmissibility [of evidence of each alleged crime] in separate trials [for the others] is not a requisite for joinder of charges[.]”²⁹ However, a “‘crucial’ factor is whether evidence of one crime would be admissible in the trial of the other crime.”³⁰ “No prejudicial effect would result from the joinder of trials if the evidence pertaining to one crime would be admissible in the trial of another offense.”³¹

DISCUSSION

I. The Charges Are Properly Joined Under Rule 8(a).

Joinder is proper under Rule 8(a) because the stalking and shooting charges arise from acts that are both temporally and logically connected. Counts 1, 2, and 4 arise from the shooting at Bowden’s apartment complex, while Count 3 alleges a course of conduct that includes that same shooting. Offenses are “connected together” within Rule 8(a) when they share a logical or temporal relationship, even if they do not arise from precisely the same act.³²

Defendant’s emphasis on differences in the offenses’ victims, methods, and conduct does not compel a different conclusion. Those differences are relevant to prejudice, but they do not negate joinder when the alleged episodes share

²⁸ *Ashley v. State*, 85 A.3d 81, 84–85 (Del. 2014) (citing *Wiest v. State*, 542 A.2d 1193, 1195 (Del. 1988)).

²⁹ *Wood v. State*, 956 A.2d 1228, 1232 (Del. 2008); *Caldwell*, 780 A.2d at 1056 n.62 (citing *Skinner*, 575 A.2d at 1118).

³⁰ *Rosser v. State*, 135 A.3d 764 (TABLE), 2016 WL 1436604, at *2 (Del. Apr. 5, 2016) (quoting *Kemske v. State*, 918 A.2d 338 (TABLE), 2007 WL 3777, at *3 (Del. Jan. 2, 2007)); accord *Gibson*, 2025 WL 1514413, at *8 (quoting *Wiest*, 542 A.2d at 1195 n.3).

³¹ *Justiniano v. State*, 185 A.3d 694 (TABLE), 2018 WL 2072816, at *3 (Del. May 2, 2018) (quoting *State v. Cooke*, 909 A.2d 596, 600 (Del. Super. 2006)).

³² *Cannon v. State*, 994 A.2d 744 (TABLE), 2010 WL 1543852, at *3 (Del. Apr. 19, 2010) (citing *Wiest*, 542 A.2d at 1195); Super. Ct. Crim. R. 8(a).

“distinctive, episode-linking features that ‘suggest parts of a common scheme or plan[.]’”³³ Nor does the mere fact that separate offenses involve different victims or occur at different times require severance.³⁴

The statutory structure of the stalking charge supplies the most significant connection. 11 *Del. C.* § 1312 requires the State to prove that Defendant knowingly engaged in a “course of conduct” directed at Bowden that would cause a reasonable person in Bowden’s circumstances to fear physical injury to herself or another person, or to suffer significant anguish or distress.³⁵ A “[c]ourse of conduct” consists of “[t]hree or more separate incidents” and may include acts undertaken directly, indirectly, or through third parties that threaten or communicate to or about another person or that interfere with, jeopardize, damage, or disrupt another’s activities or property.³⁶

Section 1312 also provides that a conviction is unnecessary for an act to serve as a stalking predicate, that conviction for a predicate act does not preclude a stalking prosecution, and that a stalking prosecution does not preclude prosecution under another section of the Delaware Code.³⁷ Thus, conduct may be charged as an

³³ *Bryan v. State*, No. 101, 2025, 2026 WL 788891 (TABLE), at *3 (Del. Mar. 20, 2026) (quoting *Wood v. State*, 956 A.2d 1228, 1232–33 (Del. 2008)).

³⁴ See *Ashley*, 85 A.3d at 85 (finding that severance was not warranted where later offenses arose from efforts directed toward a third party to prevent the victim from testifying about earlier offenses); *Fortt v. State*, 767 A.2d 799, 803 (Del. 2001) (“Severance is not required . . . simply because the alleged charges involve different victims and occur at separate times.”) (citations omitted).

³⁵ 11 *Del. C.* § 1312(a), (e)(2).

³⁶ *Id.* § 1312(e)(1).

³⁷ *Id.* In May 2026, the General Assembly reorganized subsection (e)(1) and moved this language, without substantive change, into the newly designated Section 1312(e)(1)(b). 85 Del. Laws ch. 259 § 1 (2026).

independent offense and simultaneously constitute an incident within the stalking course of conduct.³⁸

Here, the State alleges that Defendant's shooting of Eley was one of the incidents comprising Defendant's course of conduct toward Bowden.³⁹ That theory is not defeated merely because Eley is the named victim of the Attempted Murder charge. Section 1312 expressly contemplates conduct that would cause the stalking victim to fear physical injury "to another person," as well as conduct involving threats or communications concerning another person.⁴⁰ Evidence that Defendant attacked Bowden's boyfriend may therefore constitute conduct directed at Bowden when the surrounding circumstances support that inference.

The Court's conclusion, however, does not rest solely on the State's contention at oral argument that the shooting would not have occurred but for Bowden's relationship with Defendant. But-for causation, standing alone, would sweep more broadly than Rule 8(a)'s requirement that the charged acts be connected logically or constitute parts of a common scheme or plan.⁴¹ The State's proffer establishes a substantially tighter connection: Defendant allegedly entered Bowden's apartment without permission; immediately complained that Bowden had called the police; repeatedly expressed anger about Bowden's relationship with Eley; returned to the apartment complex; and allegedly shot Eley as Eley approached Bowden's apartment. The shooting thus forms the alleged culmination of the same

³⁸ See *Jewell v. State*, 340 A.3d 562, 588–89 (Del. 2025) (finding that terroristic threatening offenses could qualify as a course of conduct underlying a stalking conviction), *cert. denied*, 146 S. Ct. 315 (2025); *State v. Rodgers*, 2025 WL 1906492, at *3–4 (Del. Super. July 10, 2025) (finding that non-compliance with bond offenses could qualify as a course of conduct underlying a stalking offense).

³⁹ State's Resp. to the Def.'s Mot. to Sever ¶ 15 (D.I. 33).

⁴⁰ 11 Del. C. § 1312(a)(1), (e)(1).

⁴¹ Super. Ct. Crim. R. 8(a).

course of conduct rather than an unrelated offense connected to the stalking charge only through Defendant's general relationship with Bowden.

The Court need not determine at this stage whether every call or message constitutes a separate incident, or whether the State ultimately will prove the required three incidents beyond a reasonable doubt. For present purposes, the State has identified the June 7 encounter, the June 19, 9:00 a.m. unauthorized entry, and the later 11:11 a.m. shooting as separate incidents, with an alleged intervening departure and return by the Defendant to the complex separating the latter two events.⁴² The Court may rely on the State's evidentiary proffer when resolving a pretrial motion to sever, subject to reconsideration if the State's representations do not materialize at trial.⁴³

Accordingly, the charges are properly joined under Rule 8(a). Counts 1, 2, and 4 arise from the same shooting, and the conduct underlying that shooting is also an alleged component of Count 3. Even if the jury ultimately declines to treat the shooting as a stalking incident, the offenses remain logically connected through their common location, compressed chronology, overlapping participants, and the communications expressly linking Bowden's relationship with Eley to Defendant's alleged actions.

II. Rule 14 Does Not Require Severance.

Proper joinder under Rule 8 does not end the inquiry, however, because Rule 14 provides that the Court may grant severance "if the defendant shows a 'reasonable probability that substantial prejudice may result from a joint trial.'"⁴⁴ Defendant

⁴² State's Resp. to the Def.'s Mot. to Sever ¶ 15 (D.I. 33).

⁴³ See *Wiest*, 542 A.2d at 1196 (reversing the denial of a new trial when the State's pretrial representation supporting joinder failed to materialize and the resulting prejudice outweighed judicial economy).

⁴⁴ *Skinner*, 575 A.2d at 1118 (citing *Bates*, 386 A.2d at 1141); Super. Ct. Crim. R. 14. Indeed, a trial court's decision to deny a motion to sever may be reversed if the defendant establishes a

contends that a joint trial would permit the jury to cumulate the evidence underlying the stalking charge to infer that Defendant has a criminal disposition with regard to the shooting.⁴⁵ Those are recognized forms of potential prejudice, but the record does not establish that they rise to the level requiring severance.⁴⁶

Much of the core evidence underlying the stalking charge would be independently admissible in a separate trial of the shooting charges. Defendant's June 19, 2025, messages expressing anger about Bowden's relationship with Eley, his alleged unauthorized entry into Bowden's apartment, his repeated calls, and his alleged return to the apartment complex prior to the shooting are relevant without relying on an inference about Defendant's character.⁴⁷ That evidence supplies a contemporaneous explanation for the alleged attack on Eley and bears directly on Defendant's motive, intent, and identity.⁴⁸ Because the evidence would be admissible for those nonpropensity purposes in a separate shooting trial, its presentation in a joint trial does not create unfair prejudice merely because it strengthens the State's case.

A focused application of the Delaware Supreme Court's decision in *Getz* supports that conclusion.⁴⁹ Defendant's identity as the shooter and his motive and

"reasonable probability" that the joint trial created "substantial injustice." See *Ashley*, 85 A.3d at 84–85.

⁴⁵ Mot. to Sever Offenses ¶ 8 (D.I. 28).

⁴⁶ See *Ashley*, 85 A.3d at 84–85.

⁴⁷ See State's Resp. to the Def.'s Mot. to Sever ¶¶ 1, 3, 5, 8 (D.I. 33).

⁴⁸ See D.R.E. 404(b)(2).

⁴⁹ The *Getz* factors, evaluating whether the admission of other crimes evidence constitutes an abuse of discretion, state:

- (1) The evidence of other crimes must be material to an issue or ultimate fact in dispute in the case. If the State elects to present such evidence in its case-in-chief it must demonstrate the existence, or reasonable anticipation, of such a material issue.
- (2) The evidence of other crimes must be introduced for a purpose sanctioned by Rule 404(b) or any other purpose not inconsistent with the basic prohibition against evidence of bad character or criminal disposition.
- (3) The other crimes must

intent in allegedly attacking Eley are material issues, and motive, intent, and identity are permissible nonpropensity purposes under Delaware Rule of Evidence (“D.R.E.”) 404(b).⁵⁰ The State has proffered Bowden’s testimony, Defendant’s messages, surveillance footage, the alleged driver’s account, and cellular-location data to establish the relevant conduct. At this stage, that proffer provides a sufficiently plain, clear, and conclusive basis for considering the evidence under *Getz*, subject to the State’s laying the necessary foundation at trial.⁵¹ Given that multiple instances of the requisite conduct for purposes of the stalking charge, one of which being the alleged shooting itself, occurred within approximately two hours on the same day, the remoteness of the conduct is likewise not a concern.⁵²

The relevant considerations under *Getz*’s fifth factor and D.R.E. 403⁵³ also favor admission. In conducting that balancing, the Court considers the nine factors identified in *Deshields*.⁵⁴ Identity, motive, and intent are disputed and

be proved by evidence which is ‘plain, clear and conclusive.’ (4) The other crimes must not be too remote in time from the charged offense. (5) The Court must balance the probative value of such evidence against its unfairly prejudicial effect, as required by D.R.E. 403. (6) Because such evidence is admitted for a limited purpose, the jury should be instructed concerning the purpose for its admission as required by D.R.E. 105.

Getz, 538 A.2d at 734 (internal citations omitted).

⁵⁰ See D.R.E. 404(b)(2); *Getz*, 538 A.2d at 734.

⁵¹ See *Getz*, 538 A.2d at 734.

⁵² See *id.*; see also *Kendall v. State*, 726 A.2d 1191, 1195 (Del. 1999) (“Evidence is too remote in time ‘only where there is no visible, plain, or necessary connection between it and the proposition eventually to be proved.’” (citations omitted)).

⁵³ D.R.E. 403 provides that “[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”

⁵⁴ When considering the fifth *Getz* factor, whether the probative value of the evidence is substantially outweighed by its unfairly prejudicial effect, the Court considers the nine factors set forth in *Deshields*:

consequential; the evidence has substantial probative force; and no less prejudicial substitute would reproduce the contemporaneous communications and sequence of events allegedly connecting Defendant to Eley and the apartment complex.⁵⁵ Further, the evidence of the relationships between Bowden, Eley, and Defendant and communications between Bowden and Defendant is less inflammatory than the charged attempted murder, and the differences between the alleged stalking conduct and the shooting reduce the danger that the jury will treat the incidents as interchangeable.⁵⁶

Defendant's reliance on *Getz* and *Deshields* does not compel a different result. Here, the core evidence from June 19, 2025, does not become relevant only through an inference that Defendant is a bad or violent person. Rather, it tends to explain why Eley allegedly was targeted, to establish Defendant's alleged state of mind, and—when considered with the surveillance, driver, and cellular-data evidence—to identify Defendant as the alleged shooter.

This ruling does not determine that every detail of Defendant's relationship with Bowden, or every incident offered to prove stalking, may also be considered as evidence of the shooting charges. Evidence that supplies no material context and serves only to portray Defendant negatively remains subject to D.R.E. 403 and

(1) the extent to which the point to be proved is disputed; (2) the adequacy of proof of the prior conduct; (3) the probative force of the evidence; (4) the proponent's need for the evidence; (5) the availability of less prejudicial proof; (6) the inflammatory or prejudicial effect of the evidence; (7) the similarity of the prior wrong to the charged offense; (8) the effectiveness of limiting instructions; and (9) the extent to which prior act evidence would prolong the proceedings.

Deshields, 706 A.2d at 506–07.

⁵⁵ See *id.*; see also *Gibson*, 341 A.3d 512 (TABLE), 2025 WL 1514413, at *15–17.

⁵⁶ See *Deshields*, 706 A.2d at 506–07.

404(b).⁵⁷ In particular, if the State seeks to have the jury consider the June 7 incident or Defendant's alleged possession of a firearm during that incident as proof of the shooting charges, the State must establish a permissible nonpropensity purpose and satisfy *Getz* and D.R.E. 403. To the extent such evidence is admitted as direct proof of the requisite course of conduct in the stalking offense but is not independently admissible on the shooting charges, the Court may restrict its use through an appropriate instruction.⁵⁸

Defendant therefore has identified potential prejudice inherent in the presentation of multiple charges, but not a reasonable probability of substantial prejudice warranting severance. Most of the June 19, 2025, evidence would be admissible in a separate shooting trial, the charges involve distinguishable incidents, victims, and elements, and Defendant has identified no inconsistent defenses that would prevent the jury from considering each charge separately.⁵⁹

Nor would severance eliminate the evidentiary overlap. The shooting would remain admissible in a separate stalking trial as direct evidence of an alleged incident comprising the statutory course of conduct, not as propensity evidence. Because joinder does not require all evidence to be mutually admissible in separate trials, the fact that some evidence pertains only to one charge does not, by itself, require severance.⁶⁰ Moreover, separate trials would substantially duplicate the witness testimony, evidence, and chronology, further weighing against severance on grounds of judicial economy. Accordingly, Rule 14 does not require severance.

⁵⁷ See *Allen v. State*, 644 A.2d 982, 984–88 (Del. 1994) (holding that prior-act evidence was inadmissible when it lacked independent logical relevance and served only to portray the defendant as having a violent disposition toward women).

⁵⁸ See *Strickland v. State*, 328 A.3d 286, 295–96 (Del. 2024) (holding that evidence directly proving the charged offense was intrinsic to that offense and thus fell outside the scope of D.R.E. 404(b)).

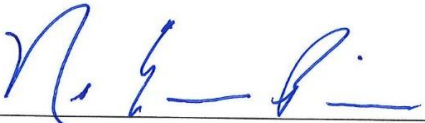
⁵⁹ See *Wiest*, 542 A.2d at 1195 & n.3.

⁶⁰ See *Wood*, 956 A.2d at 1232 (holding that such reciprocal admissibility in separate trials is not a prerequisite to joinder).

CONCLUSION

WHEREFORE, in light of the preceding considerations, Defendant's Motion to Sever is **DENIED**.

IT IS SO ORDERED.



Noel Eason Primos, Judge

Via email

cc: Prothonotary
Counsel of Record