IN THE SUPREME COURT OF THE STATE OF DELAWARE

TONIO DREDDEN,	§	
Defendant-Below,	§	No. 406, 2025
Appellant,	§	
	§	Court Below: Superior Court
v.	§	of the State of Delaware
	§	
STATE OF DELAWARE,	§	Cr. ID No. 2408006165A/B
Appellee.	§	

Submitted: September 16, 2026
Decided: November 19, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR**, **LEGROW**, **GRIFFITHS**, and **ZURN**, Justices, constituting the Court *en Banc*.

ORDER

This 19th day of November, 2026, after careful consideration of the parties' briefs and the record below, and following oral argument, it appears to the Court that:

(1) On August 11, 2024, Wilmington Police Department officers responded to a 911 call from Daniel Cannon, who reported a disturbance at the home he shared with his grandmother, Kathleen Daniels, and her boyfriend, Tonio Dredden. During the call, Cannon told the dispatcher that "Tony Dredden has tied my GG up."[1]

[1] App. to Opening Br. at A59 (June 16, 2025, Trial Tr., 46:17–18) (audio recording as quoted by the State).

(2) Cannon was waiting outside when officers arrived. He led the officers toward the rear of the residence, where they found Daniels seated in a chair with her wrists and ankles bound and her mouth covered with black tape. She was whimpering and, according to Corporal Smith, appeared frightened and distressed. Dredden was seated near her and appeared to have just awakened. The officers freed Daniels and escorted her outside.

(3) While speaking with officers outside the residence, Daniels explained that Dredden had accused her of stealing items from a safe in their home.[2] Daniels said that when she denied the accusation, Dredden threatened her, held a knife to her throat, bound her wrists and ankles, and taped her mouth shut.[3] Daniels's statements were captured on an officer's body-worn camera.

(4) On October 7, 2024, a grand jury indicted Dredden for six offenses: aggravated menacing, possession of a deadly weapon during the commission of a felony, second-degree assault, first-degree unlawful imprisonment, terroristic threatening, and possession of a deadly weapon by a person prohibited. The case proceeded to a two-day jury trial beginning June 16, 2025. The Superior Court severed the person-prohibited charge for a later phase of the trial.

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[2] Opening Br. Ex. B (video recording of Daniels's Section 3507 statement).

[3] *Id.*

(5) At trial, Daniels testified that she could not remember exactly what happened that led to her being bound in her home.[4] The State therefore introduced the body-worn camera video that captured Daniels's initial statements to police outside her home. The court admitted the statements under 11 *Del. C.* § 3507, which permits certain prior statements of a testifying witness to be admitted as substantive evidence.[5] After watching the recording, Daniels acknowledged that she remembered speaking with the officers and that she had been frightened when Dredden held a knife to her neck.[6]

(6) On cross-examination, Daniels stated that she and Dredden had a "kinky" sexual relationship, something she had previously described in a notarized letter.[7] She further testified that both the responding officers and her grandson had misunderstood what occurred.[8] Later, when called as a defense witness, Daniels acknowledged another notarized letter, dated June 12, 2025, in which she stated that she had lied about the incident.[9]

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[4] App. to Opening Br. at A114–22 (June 16, 2025, Trial Tr., 100–09) (Daniels).

[5] *Id.* at A116–24 (June 16, 2025, Trial Tr., 103–11).

[6] *Id.* at A124–26 (June 16, 2025, Trial Tr., 111–13) (Daniels).

[7] *Id.* at A129–30 (June 16, 2025, Trial Tr., 116–17) (Daniels).

[8] *Id.* at A132 (June 16, 2025, Trial Tr., 118–19) (Daniels).

[9] *Id.* at A206, A211 (June 17, 2025, Trial Tr., 24, 29) (Daniels).

(7) During closing argument, the State played three videos for the jury before attempting to play the body-worn camera footage capturing Daniels's statement to police. When the prosecutor began replaying that footage, Dredden promptly objected. The Superior Court sustained the objection, explaining at sidebar that Daniels's statement constituted testimonial evidence under Section 3507 and could not be replayed during closing argument.[10] Dredden moved for a mistrial. The trial court denied the motion, reasoning that the recording had been stopped almost immediately and that a curative instruction would suffice.[11] The court proceeded to instruct the jury to "disregard any of . . . what you had just seen in that short clip" and that the jury's own "recollection of the testimony controls."[12]

(8) The prosecutor played an additional video before concluding closing argument by encouraging the jurors "to rewatch some of the videos that were shown today."[13]

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[10] *Id.* at A216–21 (June 17, 2025, Trial Tr., 34–39).

[11] *Id.*; *see also id.* at A288–89 (June 17, 2025, Trial Tr., 106–07) (denoting the trial court's observation that the recording was paused at timestamp 20:43:41 and that the court could not determine when the prosecutor began playing it). Just how much of the recording the jury heard remains disputed. The State maintains that the recording was stopped before Daniels made any substantive statements. Dredden, pointing to the recording's timestamp, contends that the jury heard at least some of her account. Dredden does not challenge on appeal the Superior Court's decision that a curative instruction would address the State's misuse of the Section 3507 statement in closing.

[12] *Id.* at A220–21 (June 17, 2025, Trial Tr., 38–39).

[13] *Id.* at A227 (June 17, 2025, Trial Tr., 45).

(9) During deliberations, the jury sent a note asking to re-watch Daniels's Section 3507 statement. Dredden objected to replaying the statement. He argued that replaying the recording would give Daniels's prior statement undue prominence over her trial testimony and undermine the court's earlier curative instruction. The State advocated granting the jury's request.

(10) After considering the parties' positions, the Superior Court permitted a single replay of the video in the courtroom. Before doing so, the court cautioned the jury that the recorded statement was testimony like any other and should receive no greater weight simply because the jurors were seeing it again. The court also informed the jurors that recordings of live testimony and certified transcripts were unavailable, and it emphasized that the video would only be played once.[14] The recording was then played, and the jury returned to its deliberations.

(11) The jury returned its verdict shortly thereafter, finding Dredden guilty of all five charges submitted in the initial phase of trial.[15] In the second phase of trial, the jury found him guilty of possession of a deadly weapon by a person prohibited. On September 10, 2025, the Superior Court sentenced Dredden to an

[14] *Id.* at A285 (June 17, 2025, Trial Tr., 103).

[15] Dredden argues that the jury's swift return of a verdict following the replay of Daniels's recorded statement demonstrates that the jury afforded the statement undue emphasis. Opening Br. at 7; Reply Br. at 8. The brevity of jury deliberations does not establish prejudice. *Cf. Purnell v. State*, 979 A.2d 1102, 1109 (Del. 2009) ("Haste or shortness of time taken by a jury in arriving at its verdict does not invalidate the verdict."). We therefore decline to infer from the timing of the verdict that the jury gave Daniels's recorded statement undue weight.

aggregate of twenty years and thirty days of unsuspended Level V incarceration, followed by decreasing levels of supervision.[16]

(12) Dredden appealed, arguing that the State and the Superior Court placed undue emphasis on Daniels's recorded statement.[17] He contends that the State provoked the jury's request to rewatch the recording by (i) attempting to replay the statement during closing argument, and (ii) encouraging the jury to revisit videos played that day. Dredden further argues that the trial court compounded the problem by (i) granting the jury's request while simultaneously instructing the jurors that they could not similarly revisit live testimony or obtain transcripts, and (ii) emphasizing that the jury could hear the statement only once. According to Dredden, these events elevated Daniels's recorded statement above her conflicting trial testimony. He therefore maintains that permitting the replay of the statement constituted an abuse of discretion requiring reversal and a new trial.

[16] App. to Opening Br. at A326–27 (Sentencing Transcript).

[17] Although Dredden's opening brief invokes the prosecutorial-misconduct framework set forth in *Hughes v. State*, 437 A.2d 559 (Del. 1981) and *Trala v. State*, 244 A.3d 989 (Del. 2020), counsel expressly abandoned any independent prosecutorial misconduct claim at oral argument. Video Recording of Oral Argument at 4:42, *Dredden v. State*, No. 406, 2025 (Del. June 3, 2026) [hereinafter June 3, 2026 Oral Argument], https://vimeo.com/1198089691?fl=pl&fe=vl ("Our position on appeal is not prosecutorial misconduct; it is abuse of discretion."). Accordingly, our review is limited to whether the Superior Court abused its discretion by permitting the jury to replay Daniels's recorded statement during deliberations.

ANALYSIS

(13) We review the Superior Court's decision to replay a witness's out-of-court statement for abuse of discretion.[18] "An abuse of discretion occurs when a court has exceeded the bounds of reason in light of the circumstances, or so ignored recognized rules of law or practice [ ] as to produce injustice."[19]

(14) The rules of evidence prohibit the admission of an out-of-court statement offered to prove the truth of the matter asserted, subject to a variety of exceptions.[20] In Delaware, our General Assembly has statutorily authorized one such exception: the admission of certain prior statements in criminal proceedings. Under 11 *Del. C.* § 3507(a), "[i]n a criminal prosecution, the voluntary out-of-court prior statement of a witness who is present and subject to cross-examination may be used as affirmative evidence with substantive independent testimonial value." A criminal jury can consider a witness's prior out-of-court statement admitted under Section 3507 as substantive evidence.

(15) A recorded Section 3507 statement presents a unique challenge during jury deliberations. Jurors do not ordinarily receive transcripts or recordings of trial

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[18] *Morse v. State*, 120 A.3d 1, 12 (Del. 2015).

[19] *McCrary v. State*, 290 A.3d 442, 454 (Del. 2023) (quoting *Thompson v. State*, 205 A.3d 827, 834 (Del. 2019)).

[20] *See* D.R.E. 801(c), 802.

testimony during deliberations.[21] So allowing a jury to continually revisit a video recording of a Section 3507 statement, while leaving trial testimony to their recollection, risks according that statement undue prominence over the other testimony presented at trial.[22] For that reason, we held in *Flonnory v. State* that "admitting a witness's out-of-court written or recorded § 3507 statement as a trial exhibit that goes into the jury room during jury deliberations should be the exception rather than the rule."[23]

(16) We have nevertheless recognized two narrow circumstances in which a trial court may exercise its discretion to depart from that general rule: "(1) when the parties agree to admit the recording as evidence or (2) when the jury requests to replay the statement during deliberations."[24] As we explained in *Morse v. State*, the

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[21] *Flonnory v. State*, 893 A.2d 507, 525 (Del. 2006) ("[A] witness's testimony before a jury is rarely, if ever, transcribed and given to the jury during their deliberations."); *Wilson v. State*, -- A.3d --, 2026 WL 2922855, at *4 (Del. Sep. 28, 2026) (TABLE).

[22] *Flonnory*, 893 A.2d at 526 ("The reason derives from the concern we discussed in *Taylor*, that allowing the jury to have transcripts of trial testimony during their deliberations might result in the jury giving undue emphasis and credence to that portion of the testimony." (citing *Taylor v. State*, 685 A.2d 349 (Del. 1996))).

[23] *Id.* at 525; *see also Waterman v. State*, 956 A.2d 1261, 1264–65 (Del. 2008) (holding that the trial court abused its discretion by allowing a victim's videotaped Section 3507 statement into the jury room during deliberations over the defendant's objection, where the jury had not requested the recording and the parties had not consented).

[24] *Morse*, 120 A.3d at 13 (citing *Flonnory*, 893 A.2d at 526–27; *Lewis v. State*, 21 A.3d 8, 14 (Del. 2011)). Neither circumstance requires the trial court to permit further review by the jury. The court must caution against "unfairly emphasizing one piece of testimonial evidence over that of all other testimonial evidence." *Flonnory*, 893 A.2d at 530.

latter exception contemplates a request made by the jury "of its own accord," one that is "spontaneous in nature, not made at the encouragement of counsel."[25]

(17) The trial court replayed Daniels's Section 3507 statement because the jury requested it. Dredden argues that decision was error because the jury's request was not spontaneous. Rather, he contends that the prosecutor encouraged the jury to request it in two ways. First, during closing argument, the prosecutor attempted to replay Daniels's recorded statement, stopping only after defense counsel objected. Second, the prosecutor concluded her closing by encouraging the jurors "to rewatch some of the videos that were shown today."[26] The combination of those events, Dredden contends, provoked the jury's later request rather than leaving it to the jury's own initiative.

(18) As to the first incident, the prosecutor's attempt to replay Daniels's statement risked influencing the jury's subsequent request, even if the recording played only briefly. Although the parties dispute how much of the recording the jury saw or heard, even a brief replay could have reminded jurors of its contents given the nature of the video.[27]

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[25] *Morse*, 120 A.3d at 17.

[26] App. to Opening Br. at A227 (June 17, 2025, Trial Tr., 45).

[27] According to the trial court, the statement was played only briefly. App. to Opening Br. at A217–18 (June 17, 2025, Trial Tr., 35–36) ("THE COURT: At this point in time it was stopped very quickly. . . . I did not hear any of the allegations that were referenced in the closing that had been played yet."); *see* Opening Br. Ex. B (video recording of Daniels's Section 3507 statement). The recording begins in the midst of an exchange between Daniels and the questioning officer.

(19) Still, corrective action came swiftly. The Superior Court promptly sustained Dredden's objection, and the trial court instructed jurors to disregard what had been played.[28] We presume that jurors follow such instructions.[29] The instruction mitigated the concern arising from the attempted replay.

(20) Dredden contends that the State further provoked the jury's request by entreating the jurors "to rewatch some of the videos that were shown today."[30] A juror reasonably could have understood that remark to include Daniels's Section 3507 statement. Dredden argues that the prosecutor's suggestion undermined the spontaneity of the jury's request and improperly encouraged jurors to give Daniels's recorded statement greater weight than her conflicting trial testimony. But our decisions in *Taylor v. State*[31] and *Morse* demonstrate that a trial court does not necessarily abuse its discretion by allowing a replay of a Section 3507 statement in

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Daniels is seated on the stoop outside her home, illuminated by the flashing red and blue lights of a police vehicle, with her grandson standing behind her. Given these distinctive features, jurors may have known what video the prosecutor attempted to replay.

[28] App. to Opening Br. at A216–21 (June 17, 2025, Trial Tr., 34–39).

[29] *See Gustave v. State*, 345 A.3d 982, 993–94 (Del. 2025) (presuming that jurors followed an instruction to rely on their recollection of recordings as presented at trial, notwithstanding their improper opportunity to review those recordings again during deliberations); *see also Guy v. State*, 913 A.2d 558, 565–66 (Del. 2006) (holding that a trial court's curative instruction remedied prejudice arising from the playback of improperly unredacted recorded material and affirming the denial of a mistrial); *Ashley v. State*, 798 A.2d 1019, 1022 (Del. 2002) ("[P]rejudice must be egregious when a curative instruction is deemed insufficient to cure prejudice to the defendant." (citing *Bowe v. State*, 514 A.2d 408, 410 (Del. 1986))).

[30] App. to Opening Br. at A227 (June 17, 2025, Trial Tr., 45).

[31] 65 A.3d 593.

similar circumstances. The central question remains whether, considering the circumstances as a whole, the replay would give undue emphasis to the recorded statement over the other evidence presented at trial.[32]

(21) In *Taylor*, the trial court informed jurors that they could ask to rehear a Section 3507 statement during deliberations, subject to the court's approval.[33] The jury later requested the recording, and the defendant objected, arguing that replaying the statement would give it undue prominence over the witness's conflicting trial testimony.[34] We nevertheless affirmed the trial court's decision to permit the replay, recognizing that the court retained broad discretion to grant such requests despite the risk of undue emphasis.[35]

(22) Two years later, in *Morse*, we confronted a circumstance more analogous to the facts here. There, the prosecutor advised jurors during closing argument that they could request Section 3507 statements from the court during deliberations.[36] We disapproved of that practice, explaining that the exception recognized in *Flonnory* contemplated spontaneous jury requests, not those "made at

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[32] *Flonnory*, 893 A.2d at 526, 528.

[33] *Taylor*, 65 A.3d at 600 ("If you want to see and listen to [the victim]'s statements, you will have to tell the bailiff and then I will have to make a decision as to whether or not you will get to listen to that again. It is a process we follow; why we do it is of no importance to you folks.").

[34] *Id.*

[35] *Id.* at 600–01.

[36] *Morse*, 120 A.3d at 16–17.

the encouragement of counsel."[37] We cautioned in *Morse* that such encouragement "should not be repeated in the future."[38] Despite our disapproval of the practice, we affirmed the trial court's decision to grant the jury's request.[39] We acknowledged that the jury had requested the recordings "at the suggestion of the prosecution,"[40] but our conclusion rested on the trial court's informed consideration of the parties' arguments, its decision to permit only a single replay in the courtroom, and its accompanying jury instructions.[41]

(23) We take this opportunity to reaffirm our caution in *Flonnory* that allowing a jury to rewatch a Section 3507 statement should be the exception rather than the rule. We further reiterate *Morse*'s admonition that prosecutors should not direct jurors to request recorded statements. The concerns identified in *Morse* are relevant here. Nevertheless, the prosecutor's remark and the brief replay of the video were less direct than what occurred in *Morse*, and even Dredden does not argue that

[37] *Morse*, 120 A.3d at 17.

[38] *Id.*

[39] *Id.* at 11–14. There, the defendant first challenged the prosecutor's suggestion at oral argument on appeal, and this Court reviewed the trial court's failure to intervene for plain error. *Id.* at 17. In reviewing the decision to replay the recordings for abuse of discretion, the Court considered the prosecutor's suggestion and concluded that the trial court had not abused its discretion. *Id.* at 13–14.

[40] *Id.* at 13.

[41] *Id.* at 13–14.

the prosecutor intended to induce the jury's request.[42] Unlike in *Morse*, the prosecutor in Dredden's trial did not specifically identify Daniels's statement and then advise jurors that they could request it from the court. Instead, the prosecutor broadly encouraged jurors to revisit some of the videos presented that day, of which Daniels's statement was only one of several.[43] Those circumstances, considered in totality, do not support a finding that the court abused its discretion, especially in the context of a trial in which the presiding judge is best positioned to evaluate the effect of the prosecutor's statements.

(24) The prosecutor's conduct, however, is only part of Dredden's challenge on appeal. Dredden also argues that the court itself unduly emphasized Daniels's recorded statement by informing jurors that they could not similarly revisit live testimony. Before replaying the recording, the court explained to jurors that it lacked the capability to replay live testimony, that certified transcripts were unavailable, and that Daniels's recorded statement would be replayed only once.[44] Dredden contends that the instruction unfairly emphasized Daniels's recorded statement by

[42] June 3, 2026 Oral Argument at 3:02 (explaining, in a response to a question by this Court whether it was the prosecutor's plan to play Daniels's Section 3507 statement from the beginning, "Whether it was the intent to do anything improper, that's not our-, our argument is not that there was an intent to do anything improper. Just that what did happen placed undue emphasis on the 3507 and drew the jury's attention to it in a way that was unfair.").

[43] App. to Opening Br. at A215, A225 (June 17, 2025, Trial Tr., 33, 43).

[44] *Id.* at A285 (June 17, 2025, Trial Tr., 103).

preemptively foreclosing jurors from requesting other testimony that they may have felt necessary to their deliberations. The court instructed the jury as follows:

> Welcome back, members of the jury. We did receive your note, which reads can we see the video of Kathleen on the stoop.
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> **I will tell you that you will be allowed to one time in the courtroom rewatch this video**, but I will tell you that just as I instructed you previously that this video is -- legally offered it is to be examined as testimony just as any other live witness. **We do not have the capability of affording you to rewatch live testimony or even to get the transcript as it is not certified at this time. So we have this available and it is being played again for you, 1, because you requested it; and 2, because we have the availability. However, you will only be able to see this one time.** The reason is, like I said, it is to be treated like any other testimony.
>
> The fact that we are replaying this for you once is not to be seen by you all as the Court or any party overemphasizing or placing any undue emphasis on this testimony. It is to be treated exactly the same as every other piece of testimony that you have received. And again, your recollection of all that testimony is what controls.
>
> With that we will play the statement, but I'm going to reread you the instruction on how prior out-of-court statements are to be evaluated by the jury. So the testimony evidence as we know has included an unsworn statement claimed to have been made by a witness before her testimony here at trial. Under Delaware law, this type of statement is admissible regardless of whether it is consistent or inconsistent with the witness' in court testimony. As with any other evidence, you must decide whether an out-of-court statement is credible or believable and how much weight it should be given.
>
> If you conclude that there is a conflict between a witness' in court testimony and an out-of-court statement, you may take that conflict into account when you decide the credibility and the

> weight of the out-of-court statement. A conflict is particularly important if there is no evidence to corroborate or confirm the inconsistent out-of-court statement. However, you may convict solely on the basis of such a statement if after judging the statement's credibility and giving it the weight you believe it deserved you find beyond a reasonable doubt that the defendant committed the crime charged.
>
> So again, just to reiterate, this is us playing this is because you asked and is not intended to create any sort of emphasis on this testimony as opposed to all of the other evidence that you heard in this trial.[45]

(25) Although inexact,[46] the portion of the Superior Court's instruction advising the jury that it could not rehear other testimony must be considered in the context of the proceedings. First, Dredden did not object to the instruction, either when it was given or afterward, so we review the court's instruction for plain error.[47] The focus of the instruction was that, although the court was granting the request, the jury should not place more emphasis on the video than it did the other trial

[45] *Id.* at A284–87 (June 17, 2025, Trial Tr., 102–05) (emphasis added).

[46] *Flonnory*, 893 A.2d at 526, 528. In *Flonnory*, we suggested that a trial court's discretion to permit a jury to rehear a Section 3507 statement is coextensive with its discretion to permit a court reporter to read back live testimony. *Id.* at 525–28. The concern here is not that the Superior Court was required to make Daniels's live testimony available, but that its statement that it lacked the capability to do so could have led jurors to believe that they could not even request it. *See Morse*, 120 A.3d at 18 (Strine, C.J., concurring) ("In other words, the justification should be something more substantial than the fact that the testimony is unavailable only in the sense that it . . . has not been reduced to a final transcript.").

[47] *Berry v. State*, 803 A.2d 427, 2002 WL 1484510, at *6–7 (Del. July 8, 2002) (TABLE) (reviewing a trial court's supplemental instruction in response to a jury note, where neither party objected, for plain error); *Zimmerman v. State*, 565 A.2d 887, 890 (Del. 1989); Supr. Ct. R. 8; *see also Morse*, 120 A.3d at 17.

testimony. The court's comments about the availability of other trial testimony were offered to explain why it was limiting the jurors' ability to rewatch the recording. And the court reminded jurors that the recording was to be treated like any other testimony, that their recollection of the evidence controlled, and that any conflict between Daniels's recorded statement and her trial testimony was relevant to the statement's credibility and weight.[48] Consistent with our precedent, the trial court replayed the testimony only once.[49]

(26) "Plain errors are 'material defects which are apparent on the face of the record, which are basic, serious, and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.'"[50] This record does not support the conclusion that the instruction clearly deprived Dredden of a substantial right or that he suffered manifest injustice.

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[48] We also do not view the Superior Court's decision to permit the replay as inconsistent with its earlier curative instruction. That instruction directed jurors to disregard the portion of Daniels's recorded statement played during closing argument and to rely on their recollection of the testimony; it did not preclude the court from later exercising its discretion to grant the jury's request to rehear the statement, as contemplated by *Flonnory* and *Morse*.

[49] *Lewis*, 21 A.3d at 14 ("If the jury's request to rehear trial testimony is granted, there is usually a *single* reading of that testimony. . . . Accordingly, in the absence of an agreement by both parties, statements should not be given to a jury for unlimited replaying during their deliberations in response to a request for a rehearing.").

Although repeated insistence that a Section 3507 statement will only be played once could unduly emphasize the statement, the trial court's instruction did not rise to that level here.

[50] *Suber v. State*, 360 A.3d 203, 210 (Del. 2026) (citing *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986)).

(27) We do not minimize the combined effect of these events. The prosecutor's attempt to replay Daniels's statement, followed by the invitation to rewatch videos during deliberations, risked provoking the jury's request. The Superior Court's subsequent explanation that the recorded statement could be replayed while live testimony could not was a misstatement and foreclosed any request for additional testimony before the jury could make one. Considered together, these circumstances presented the risk of undue emphasis that we cautioned against in *Flonnory*. Nevertheless, viewed in the context of the entire record and for the reasons explained above, the Superior Court's decision to permit the replay did not exceed the bounds of reason or so ignore recognized rules of law or practice as to produce injustice.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Abigail M. LeGrow
Justice