



IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRELL REID,	)	
	)	
Defendant Below-	)	
Appellant,	)	No. 478, 2024
	)	
	)	ON APPEAL FROM
v.	)	THE SUPERIOR COURT OF THE
	)	STATE OF DELAWARE
STATE OF DELAWARE,	)	ID No. 2112006478A/B
	)	
Plaintiff Below-	)	
Appellee.	)	

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ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
DELAWARE IN AND FOR NEW CASTLE COUNTY

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**CORRECTED REPLY BRIEF**

**COLLINS PRICE WARNER  
WOLOSHIN**

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Dated: July 14, 2025

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Appellant Tyrell Reid, through the undersigned attorney, replies to the State's Answering Brief as follows:

### **ARGUMENT**

#### **I. THE TRIAL JUDGE ABUSED ITS DISCRETION IN PERMITTING THE STATE TO INTRODUCE HEARSAY TESTIMONY THROUGH DETECTIVE JONES REGARDING TAHESHA BROWN'S PRIOR STATEMENT TO POLICE THAT SHE PREVIOUSLY OBSERVED MR. REID WITH A FIREARM.**

In its Answering Brief, the State contends that it could not have played the recording of Ms. Brown's prior inconsistent statement to Detective Jones because of the prior agreement by the parties.<sup>1</sup> But that is not true. After the defense questioned Ms. Brown about whether she had seen Mr. Reid walking with a gun in his hand, the Court found that the door was open for the State to question Ms. Brown about previously seeing Mr. Reid with a gun. In light of the Court's ruling, the State would have been permitted to play the portions of her statement that were inconsistent with her testimony at trial.

The reason provided by the prosecutor at trial for not playing her prior interview was not because he was prohibited from doing so; rather, the prosecutor indicated he "wasn't going to play the clip because I don't want to draw undue attention to it."<sup>2</sup> It is clear from the record that the State knew it was permitted to

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<sup>1</sup> Ans. Br. at 17-19.

<sup>2</sup> A637.

play Ms. Brown's prior inconsistent statement when she was on the stand, but chose not to do so.

The State also contends that it is unclear whether Mr. Reid objects to the admissibility of Ms. Brown's prior statement or the manner in which it was presented.<sup>3</sup> Mr. Reid argues that Ms. Brown's prior inconsistent statement was not admissible based on the manner in which it was presented through Detective Jones. The State's decision to elicit this testimony through Jones constituted hearsay. The proper method of impeachment would have been to confront Ms. Brown about her prior inconsistent statement while she was on the stand.

The cases cited in the Opening Brief highlight the appropriate method of introducing extrinsic evidence of a witness's prior inconsistent statement. In *Givens v. State*,<sup>4</sup> the State recalled a witness on rebuttal and played a recording of her taped statement with an investigator for the jury.<sup>5</sup> On appeal, the State argued that it introduced the recorded statement under Delaware Rule of Evidence 613 to impeach the witness's testimony that was inconsistent with her prior statement.<sup>6</sup> This Court found that the witness was given an opportunity to explain her prior

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<sup>3</sup> Ans. Br. at 20.

<sup>4</sup> 2017 WL 2465195 (Del. Jun. 6, 2017).

<sup>5</sup> *Id.* at \*2.

<sup>6</sup> *Id.* at \*3.

inconsistent statement and the defense was permitted to question her about the statement; therefore there was no error in admitting the statement.<sup>7</sup>

Interestingly, in *Robinson v. State*,<sup>8</sup> the prosecution objected to the defense's attempt to elicit testimony from an officer about a witness's prior statement.<sup>9</sup> The State argued that the proper witness to examine about the inconsistencies in the witness's prior statement to the officer was the witness, not the officer.<sup>10</sup> The State noted that the officer who took the statement had "no personal knowledge of the facts recounted in the statement."<sup>11</sup> The trial court agreed with the prosecutor and found that the defense had to first confront the witness about any alleged inconsistencies in the prior statement to police.<sup>12</sup> This Court affirmed the trial court's judgment.<sup>13</sup>

Now, in Mr. Reid's case, the State argues that it was proper to introduce the prior inconsistent through Detective Jones, rather than through the person who made the statement – Ms. Brown. While the State did ask Ms. Brown a few questions about what she previously told Detective Jones, the prosecutor did not actually confront her with her prior inconsistent statement. The State should have

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<sup>7</sup> *Id.*

<sup>8</sup> 3 A.3d 257 (Del. 2010).

<sup>9</sup> *Robinson*, 3 A.3d at 261-62.

<sup>10</sup> *Id.* at 262.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 264.

shown Ms. Brown her prior statement and then confronted her about any inconsistencies. This would have afforded her an opportunity to explain or deny the statement as required under Delaware Rule of Evidence 613(b).<sup>14</sup>

The State chose not to confront Ms. Brown with her prior inconsistent statement; instead, it made a strategic decision to bring in this evidence through Detective Jones, which created a hearsay issue. The trial court abused its discretion in permitting the State to introduce this hearsay testimony about Ms. Brown's prior statement through Detective Jones. Mr. Reid's convictions should be reversed.

***Even if Ms. Brown's prior inconsistent statement was properly admitted through Detective Jones, the trial court's failure to give a limiting instruction regarding the proper purpose of this statement constituted plain error.***

Even if the prior inconsistent statement was properly admitted, the trial court erred by not instructing the jury regarding the proper purpose for this testimony – that it was to be used to assess the credibility of Ms. Brown and was not to be used as affirmative evidence that Mr. Reid did in fact possess a gun. The trial court's failure to give a limiting instruction constituted plain error.<sup>15</sup> There was no other

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<sup>14</sup> D.R.E. 613(b).

<sup>15</sup> This Court may consider questions not fairly presented to the trial court “when the interests of justice so require.” Supr. Ct. R. 8. This Court reviews these issues not properly raised to the trial court under a plain error standard of review. *Hoskins v. State*, 102 A.3d 724, 728 (Del. 2014).

evidence introduced at trial that Mr. Reid had a gun and no gun was presented at trial.

The issue of whether Ms. Brown, the mother of Mr. Reid's children, saw Mr. Reid with a gun was not peripheral in this case.<sup>16</sup> Given that no other witness testified to seeing Mr. Reid with a gun and there was no gun admitted into evidence, it was a significant piece of evidence that was introduced to the jury. Without a proper limiting instruction regarding the proper purpose of this testimony, the jury was free to consider Ms. Brown's prior inconsistent statement for the truth of her statement. The trial court's failure to give an instruction that Ms. Brown's prior inconsistent statement should only be considered for her credibility constituted plain error.

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<sup>16</sup> See Ans. Br. at 27 ("Simply put, the question of whether Brown had ever seen Reid with a gun was at most a peripheral issue in this case.").



## **II. THE TRIAL JUDGE ERRED BY FAILING TO INSTRUCT THE JURY NOT TO CONSIDER MR. REID’S CUSTODY STATUS IN ITS DELIBERATIONS AFTER THE STATE INTRODUCED EVIDENCE THAT MR REID WAS INCARCERATED IN LIEU OF BAIL PENDING TRIAL.**

In its Answering Brief, the State contends that the trial court’s failure to instruct the jury to not consider Mr. Reid’s custody status did not constitute plain error.<sup>17</sup> The State argues that Mr. Reid’s case is “different from others in which evidence reveals that a defendant was imprisoned because he had been convicted of some other, unrelated crime.”<sup>18</sup> Yet, the State cites to no cases in support of this argument.

In *Harris v. State*,<sup>19</sup> cited in Mr. Reid’s Opening Brief, the Superior Court admitted prison call recordings over the defense’s objection.<sup>20</sup> In allowing the recordings, the trial judge ordered that the recordings had to be edited to remove reference to the company that handles prison calls and indicated that a limiting instruction would be given to the jury regarding the proper use of the prison call recording.<sup>21</sup> In addition to robbery and assault related offenses, Mr. Harris was

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<sup>17</sup> Ans. Br. at 30.

<sup>18</sup> *Id.* at 33.

<sup>19</sup> 301 A.3d 1175 (Del. 2023).

<sup>20</sup> *Id.* at 1178.

<sup>21</sup> *Id.* at 1178-79.

also charged with Aggravated Act of Intimidation and Breach of Conditions of Bond During Commitment under the same indictment.<sup>22</sup>

This Court found that the trial court did not abuse its discretion by finding that the probative value of the recordings of the phone calls was not substantially outweighed by the danger of unfair prejudice.<sup>23</sup> This Court provided three reasons for why the recordings were not unfairly prejudicial: 1) the jury was made aware that Mr. Harris was incarcerated given the breach of conditions charge, 2) Mr. Harris stipulated he was incarcerated at the time, and 3) the “trial judge properly instructed the jury to disregard any improper inference from the fact that Harris was incarcerated during the relevant time period.”<sup>24</sup>

The State is correct that Mr. Reid does not argue about the introduction of the prison calls; rather, the argument focuses on the trial court’s failure to give an instruction to the jury not to consider Mr. Reid’s custody status during its deliberations. Here, without a proper limiting instruction, the jury could have found Mr. Reid guilty on an improper basis. To ensure that Mr. Reid received a fair trial, the trial court should have instructed the jury not to consider the fact that Mr. Reid was incarcerated during its deliberations or not draw any inferences that

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<sup>22</sup> *Id.* at 1179.

<sup>23</sup> *Id.* at 1185.

<sup>24</sup> *Id.*

because he was incarcerated he is a bad person who is more likely to have committed the charged offenses.

The trial court's failure to properly instruct the jury violated Mr. Reid's right to a fair trial and constituted plain error.

## **CONCLUSION**

For the foregoing reasons, as well as those set forth in the Opening Brief, Appellant Tyrell Reid respectfully requests that this Court reverse the judgment of the Superior Court and remand for a new trial.

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