EFiled: Oct 23 2025 01:23PM EDT
Filing ID 77428819
Case Number 431,2024

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARYL BALDWIN, Defendant Below, Appellant v. STATE OF DELAWARE Plaintiff Below, Appellee.	)))))))))))	No. 431, 2024

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

APPELLANT'S REPLY BRIEF

Robert M. Goff, Esquire (#2701)
Office of the Public Defender
Carvel State Building
820 N. French St.
Wilmington, Delaware 19801
(302) 577-5151

Attorney for Appellant

DATE: October 23, 2025

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Statutes and Evidentiary Rules

I. BECAUSE STATE'S ANSWERING BRIEF FOCUSES SOLEY ON DELAWARE'S RAPE SHIELD LAW, IT IGNORES THE MERITS OF THE DEFENDANT'S CORE ARGUMENTS OF ERROR ON APPEAL REGARDING THE RULE OF COMPLETENESS, RELEVANCE AND UNFAIR PREJUDICE.

Merits of Argument

The State's Answering Brief reformulates the issue on appeal as "whether the rule of completeness. . . overrides the protections of the Delaware Rape Shield Law."[1] But this version of the question presented conveniently mischaracterizes both the trial court's decisional framework below and the argument Baldwin has brought to this Court in the appeal of that decision. As a result, the State exercises itself knocking down the straw argument it constructed resulting in a refutation of claims Baldwin never made.[2]

Despite the State's repeated claims to the contrary,[3] Baldwin's appeal does not argue that D.R.E. 106 overrides or "trumps" either Delaware's Rape Shield Law[4] or D.R.E. 403. Baldwin's argument acknowledges D.R.E. 403's appropriate consideration by the trial court but urges this Court to reach a different conclusion

---

[1] Ans. Br. at 2, 9.
[2] *Canesi ex rel. Canesi v. Wilson*, 730 A.2d 805, 820 (N.J. 1999) ("In formal logic, the technique of setting up an argument that does not exist and then refuting that misrepresented argument is called the "straw man" fallacy.").
[3] Ans. Br. at 9, 17, 18.
[4] 11 *Del. C.* §§ 3508-3509. Throughout this brief the term Delaware Rape Shield means these two statutes.

on the particular facts of this case and persuasive caselaw.[5] Baldwin argues that the trial court, having correctly found the Delaware Rape Shield Law inapplicable, erred in this case when it found the redacted portion of the DNA report (1) possessed minimal probative value to the Defense while (2) posing great danger of unfair prejudice to the State and complaining witness and confusion to the jury.[6]

Incanting the Rape Shield Law, the State's Brief excuses itself from answering Baldwin's core arguments: That excluding proof of another person's DNA on H.A. took from the jury relevant evidence that was necessary to assess the proper weight of the inconclusive results found on her body. Without the benefit of knowing that male DNA other than Baldwin's was on her body, the jury was encouraged to accept the distorted impression that the mixed inconclusive results would have been Baldwin's if there had just been enough DNA there.[7] Meanwhile, the State's answer fails to address Baldwin's detailed review and discussion of the meaning and inferences to be drawn from the DNA evidence by itself, both as redacted and presented to the jury and unredacted and withheld from the jury,[8] and in context with the rest of the trial evidence.[9] [10]

---

[5] Op. Br. at 30-33 (notes 15-23).
[6] Op. Br. at 22-23.
[7] Op. Br. at 28-29; A736-737.
[8] Op. Br. at 25-29.
[9] Op. Br. at 33-35.
[10] As noted, these arguments were discussed at length in Baldwin's Opening Brief. Because the State has failed to address them and Supreme Court Rule 14(c)(i)

The State also claims that Baldwin is attempting to use D.R.E. 106 to make otherwise inadmissible evidence admissible.[11] The evidence is inadmissible, the State says, because Baldwin is trying to admit it to establish that H.A. had engaged in another sexual act and to portray H.A. as promiscuous, something not permitted under Rape Shield.[12] Underlying this claim is the State's conclusory assumption the redacted DNA conclusion constitutes evidence of sexual conduct on the part of H.A. This assumption is made without citation to any legal authority after failing to address the authority Baldwin raised in opening.[13] Instead, the State describes Baldwin's use of D.R.E. 106 as a "tactic" to import inadmissible promiscuity into the case, citing *Banther v. State*.[14] But that case has little to do with what this Court must decide. In *Banther*, the accused sought to require the admission of self-serving portions of a statement he made to police that would not have been subject to cross-examination by the State and which were cumulative with other statements he had made that were already in evidence.[15] Baldwin's claim does not seek to cumulate

---

mandates that in reply, "[t]here shall not be repetition of materials contained in the opening brief," they are only briefly referenced here. Because the State failed to address Baldwin's claims that: (1) any possible prejudice was susceptible to cure by means of an appropriate instruction (Op. Br. at 32-33); (2) and the error in exclusion was prejudicial, no further argument is made in this Reply Brief (Op. Br. at 33-35).

[11] Ans. Br. at 18.

[12] Ans. Br. at 18.

[13] Op. Br. at 31.

[14] 823 A.2d 467 (Del. 2003).

[15] *Banther* at 487.

already existing facts[16] but rather to introduce unique evidence that in fairness would inform the jury's understanding of the meaning and weight of other evidence in same writing.[17] The request was not a "tactic" but an appropriate motion to introduce relevant evidence to support a fair defensive reading of the DNA results.

In fact, DNA found on an alleged victim need not be seen as evidence of a specific instance of sexual conduct.[18] In reversing the district court, the Colorado Court of Appeals ruled:

> [w]e have concluded that the DNA evidence is not covered by the rape shield statute because it is not evidence of a specific instance of K.H.'s sexual conduct. We acknowledge that the evidence might indirectly cause the jury to infer that K.H. engaged in sexual conduct, [. . .], but there were other nonsexual explanation for how the DNA could have transferred to K.H., as even the prosecution's expert witness explained. . . .[19]

Of course, Baldwin's trial counsel made precisely the same claim: That DNA evidence of a third person on H.A. was not evidence of a specific instance of sexual conduct.[20]

Although the State fails to take on the issues raised by Baldwin on appeal, the its brief does delve into the purpose and rationale of Delaware Rape Shield statutes.[21]

---

[16] See D.R.E. 403.
[17] See D.R.E. 106.
[18] Op. Br. at 31-33.
[19] *People v. Hood*, 550 P.3d 723, 728 (Colo. App. 2024) (internal citation omitted).
[20] Op. Br. at 10, A364-365.
[21] Ans. Br. at 19-20.

Alluding to an accused's right to cross-examination and confrontation being limited by the Delaware Rape Shield law, the State advances the notion that Baldwin's attempted introduction of the redacted portion of the DNA report was intended to embarrass and humiliate H.A. with questions asserting promiscuity and to make her "look bad."[22] This claim is spurious and without support in the record. First, as a practical matter, H.A.'s testimony (and her cross-examination by Baldwin)[23] was long over by the time the State called its DNA expert[24] and the trial court finally addressed the matter of the admission of the redacted DNA Report.[25] Second, earlier in the trial during H.A.'s cross-examination,[26] Baldwin's counsel made no attempt to make H.A. "look bad" by questioning her about any prior sexual activity.[27] Most importantly, the evidence itself was not being offered as proof of other sexual activity on the part of H.A.[28] As discussed, the singular purpose Baldwin had for

---

[22] Ans. Br. at 19-20; A494-495. The State cites *Massey v. State*, __ A.3d___, 2025 WL 2536692 (Del. 2025). That case, however, is distinguishable because it involved a defendant's attempt to question the complaining witness about other sexual conduct on the theory that the victim fabricated a separate sexual assault incident. At trial, Baldwin sought no such questioning of H.A. and, therefore, did not invoke the procedures of the Rape Shield statutes as Massey's defense clearly required.

[23] A41-125.

[24] A510.

[25] A503-509.

[26] A100-118.

[27] Baldwin's claims on appeal have nothing to do with his confrontation rights versus a rape victim's right to be free of questioning about instances of prior sexual conduct.

[28] Baldwin's counsel was clear that the purpose was not to explore or discuss H.A.'s sexual conduct: "I don't think that this falls in that category. This is a DNA result. This is not trying to elicit testimony from Miss [H.A.] of any specific sexual conduct

introduction was to provide a complete picture complimenting and informing the meaning of the remaining mixed DNA results the jury was permitted to consider in its deliberations. The redacted evidence had nothing to do with H.A.'s sexual activity and everything to do with the amount of weight the jury should give the remaining admitted inconclusive DNA findings.

The State's argument is a red herring drawing attention away from the real issues Baldwin raised but the State declines to answer.

[. . .]. I think the whole picture needs to come in." A365, lines 6-16. "It is not, in and of itself, evidence of a sexual act." A492, lines 19-20. "It is not, in and of itself, evidence of a specific sexual act. There is [sic] transfer principles of DNA. There are studies that have been show that DNA can transfer in the wash. There has been testimony that she lives in the same household with males. There are many explanations that can be offered as to why male DNA is on her underwear. It is not offered in any way to show promiscuity on the part of the complaining witness." A496, lines 9-21. "[…] I do believe that his ruling is prejudicial to the Defendant. There is DNA, mixed DNA results, in this case. As far as the stain in her underwear, the idea of transfer DNA, that does somewhat undermine Defense's ability to make that argument." A508, lines 15-22.

CONCLUSION

For the reasons and upon the authorities cited in the Reply and Opening Briefs of the Appellant, the judgment of convictions should be reversed the case remanded for a new trial.

Respectfully submitted,

/s/ *Robert M. Goff*
Robert M. Goff (#2701)
Office of Public Defender
Carvel State Building
820 North French Street
Wilmington, DE 19801

Date: October 23, 2025.