STATE OF NEW JERSEY

v.

PAUL CANEIRO,

Defendant.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: CRIMINAL PART
MONMOUTH COUNTY

INDICTMENT No. 19-02-0283
CASE No. 18-4915

ORDER

FILED
APR 23 2026
Marc C. Lemieux, A.J.S.C.

THIS MATTER comes before the court by way of defendant Paul Caneiro's motion for a new trial. This matter was addressed on April 20, 2026, in the presence of defendant represented by Monika Mastellone, Esq. and Andy Murray, Esq. of the Office of the Public Defender, Monmouth Region and Christopher Decker, Esq., Assistant Prosecutor, and Nicole Wallace, Esq., Assistant Prosecutor, for the State of New Jersey, the court having considered the moving papers, any opposition thereto, having held oral argument, and for good cause shown;

IT IS on this 23rd day of April 2026;

ORDERED that defendant's motion for new trial is **DENIED**; and it is further

ORDERED sentencing has been rescheduled to **Tuesday, May 19, 2026 at 8:30 a.m. in person in courtroom 307w**; and it is further

ORDERED that both the State and the defendant is required to provide the court with their respective sentencing memos by **May 7, 2026 at 3:30 p.m.**; and it is further

ORDERED that a copy of this Order shall be deemed served on all parties upon by uploading to eCourts.

HON. MARC C. LEMIEUX, A.J.S.C.

OPPOSED

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

STATE OF NEW JERSEY v. PAUL CANEIRO, Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: CRIMINAL PART MONMOUTH COUNTY INDICTMENT No. 19-02-0283 CASE No. 18-4915 **OPINION**

Argued April 20, 2026 - Decided: April 23, 2026

Monika Mastellone, Esq. and Andy Murrary, Esq. (Office of the Public Defender, Monmouth Region) for defendant

Christopher Decker, Deputy First Assistant Prosecutor, and Nicole Wallace, Assistant Prosecutor, for the State (Raymond S. Santiago, Monmouth County Prosecutor)

LEMIEUX, A.J.S.C

INTRODUCTION

Defendant Paul Caneiro was convicted by a jury on four counts of murder, two counts of felony murder, two counts of aggravated arson, one count of possession of a firearm for an unlawful purpose, one count of possession of a weapon for an unlawful purpose, one count of unlawful possession of a weapon, two counts

of theft related offenses, and two counts of hindering his own apprehension following a six-week trial.

The trial commenced with jury selection on January 5, 2026. After just over four days of selection, a jury was empaneled. The court informed the attorneys that it would allow them to have the weekend to prepare, and opening statements commenced on January 12, 2026.

The jury heard opening statements, trial testimony, and summations over approximately twenty court days. The jury reached a guilty verdict on all counts in less than five hours. Defendant was subsequently held without bail pending his sentence on May 12, 2026.

In anticipation of defendant's right to file a motion for a new trial, the court set a briefing schedule and hearing date immediately after the verdict. R. 3:20-2. The defense was ordered to file a notice of motion for a new trial within ten days of the verdict. If the motion was filed, the defense was to submit its brief in support of a new trial by March 16, 2026 and the State's response was due by April 8, 2026. Oral argument took place on April 20, 2026. Andy Murray, Esq. (hereinafter "Mr. Murray") argued the motion for defendant and Deputy First Assistant Prosecutor Christopher Decker (hereinafter "Mr. Decker") argued for the State.

POINT I: ALLEGED DENIGRATION OF DEFENSE COUNSEL

I. PARTIES' POSITIONS

A) The Defense

Defendant argues that, over the course of the six-week trial, the court engaged in a pattern of conduct toward lead defense counsel, Monika Mastellone, Esq. (hereinafter "Ms. Mastellone"), that deprived him of a fair trial before a neutral arbiter and warrants a new trial under Rule 3:20-1. According to the defense, that conduct occurred both in and outside the presence of the jury and, taken together, conveyed judicial disapproval of the defense.

The defense identifies nine categories of conduct in support of that claim. First, it contends that, from the outset of trial, the court displayed impatience, criticism, and hostility directed only at the defense. Second, it argues that the court made accusatory comments toward defense counsel without an adequate basis. Third, it asserts that, during sidebar conferences, the court exhibited anger in ways the jury could observe, including pointing at counsel, appearing flushed, scowling, and using a stress ball the court had earlier referenced to the jury. In that regard, the defense relies on Allen v. Alabama, 290 Ala. 339, 343 (1973), for the proposition that judicial partiality may be conveyed through demeanor and nonverbal conduct, not words alone.

Fourth, the defense argues that the court repeatedly raised and sustained objections sua sponte against defense counsel and did so in a tone and manner the

jury could perceive as hostile. Fifth, it contends that the court made prejudicial remarks to defense counsel during cross-examination in the jury's presence. Sixth, it argues that, after the State objected on hearsay grounds during Katelyn Caneiro's (hereinafter "Katelyn") testimony, the court improperly accused the defense of a discovery violation for failing to disclose a screenshot that formed the basis of the testimony. Seventh, it contends that the court made critical comments of defense witnesses' credibility during proceedings outside the presence of the jury. Eighth, it points to media and public reporting on several of these incidents and argues that, if those exchanges were significant enough to affect public observers, they necessarily affected the jury as well. Ninth, the defense contends that the court's favorable rapport with the jury, reflected in daily jokes, recurring questions, and informal exchanges, stood in sharp contrast to its treatment of defense counsel and left the jury with the impression that the court disapproved of the defense. In support of that broader theory, the defense relies on State v. O'Brien, 200 N.J. 520, 539 (2009).

Defendant maintains that these categories of conduct, considered separately and together, denied him a fair trial and requires a new trial in the interest of justice.

B) The State

The State argues that defendant received a fair trial before an impartial judge and an unbiased jury, and that the defense's allegations are unsupported by the

record. According to the State, the court's interventions were directed not at denigrating defense counsel, but at managing the trial, promoting juror understanding, and enforcing the Rules of Evidence.

The State further contends that defense counsel's questioning was marked by repetition, irrelevance, speculation, hearsay, and, in one instance, a discovery violation, such that the court's interventions, including sua sponte rulings, were appropriate. State v. Bitzas, 451 N.J. Super. 51, 76 (2017). The State also argues that the trial record as a whole reflects even-handed treatment of both parties; that any concern about perceived partiality was cured by the court's instructions, including the January 23, 2026 mid-trial instruction and the February 12, 2026 final charge, and that jurors are presumed to follow those instructions. State v. Feaster, 156 N.J. 1, 65 (1998).

In the State's view, it was defense counsel's repeated failure to conform their questioning to the Rules of Evidence and the court's prior rulings that required judicial intervention. The State therefore maintains defendant was not prejudiced and received a fair trial.

II. GOVERNING LAW AND LEGAL ANALYSIS

A trial court may grant a defendant a new trial if required "in the interest of justice." R. 3:20-1. This relief is warranted where the verdict produces a "pervading sense of wrongness" arising from a "manifest lack of inherently credible evidence,"

an "obvious overlooking or undervaluation of crucial evidence," or a "clearly unjust result." Risko v. Thompson Muller Auto. Grp., Inc., 206 N.J. 506, 521 (2011).

Rule 3:20-1 governs the standard for a defendant's motion for a new trial and sets forth the following:

> The trial judge on defendant's motion may grant the Defendant a new trial if required in the interest of justice … The trial judge shall not, however, set aside the verdict of the jury as against the weight of the evidence unless, having given due regard to the opportunity of the jury to pass upon the credibility of the witnesses, it clearly and convincingly appears that there was a manifest denial of justice under the law.

The Supreme Court of New Jersey has held that in considering a motion for a new trial, the court must consider "not only tangible factors relative to the proofs as shown by the record, but also appropriate matters of credibility, generally peculiarly within the jury's domain, so-called 'demeanor evidence,' and the intangible 'feel of the case' which he has gained by presiding over the trial." Dolson v. Anastasia, 55 N.J. 2, 6 (1969).

In short, the court must determine if there has been a manifest denial of justice under the law. Id. at 7. A motion for new trial is decided in the court's discretion, with deference to the trial judge. State v. Terrell, 452 N.J. Super. 226, 269 (App. Div. 2016), aff'd, 231 N.J. 170 (2017). A new trial is not warranted unless the case culminates in a clearly unjust result. Hayes v. Delamotte, 231 N.J. 373, 386 (2018) (citing Risko, 206 N.J. at 521-22).

Defendant is represented by two defense attorneys, Ms. Mastellone and Mr. Murray. The exchanges identified in the defense's brief overwhelmingly involve Ms. Mastellone, with comparatively few involving Mr. Murray. When viewed in context, rather than through the limited excerpts highlighted in the defense's submission, the alleged incidents of judicial misconduct resolve into a series of interventions, each tied to specific and legally cognizable bases. Specifically, the cited exchanges reflect witness examination, failed adherence to prior rulings, and the orderly presentation of evidence that consistently necessitated judicial management and intervention.

A) Conduct Occurring Outside the Presence of the Jury

Jurors regard the trial judge as an authoritative figure. The law therefore guards against conduct from the bench that could convey a view regarding the credibility of witnesses or the merits of a party's position. Colucci v. Oppenheim, 326 N.J. Super. 166, 179 (App. Div. 1999); State v. Ross, 229 N.J. 389, 416 (2017).

Thus, where judicial conduct is alleged to have prejudiced the defense, the relevant inquiry focuses on the jury. Specifically, the controlling question is whether the conduct had "the capacity to unfairly influence the jury." State v. Atwater, 400 N.J. Super. 319, 337 (App. Div. 2008); see also O'Brien, 200 at 536. That inquiry necessarily turns on what the jury was able to observe. When the jury does not observe the conduct in question, the potential for influence does not arise.

Before addressing each argument raised in the defense's brief, the court first observes that most of the conduct identified by the defense occurred outside the presence of the jury.

First, the series of discussions concerning the court's request for both sides to submit written submissions relating to any anticipated legal issues in the case[1] occurred before the jury was empaneled or during side bar conferences. Because the jury was not present, those exchanges were incapable of influencing the jury's view of the case.

Second, the conversation following the cross-examination of Benjamin Paolucci (hereinafter "Mr. Paolucci") on Trial Day 1, wherein the court addressed Ms. Mastellone's questioning regarding alleged violent tendencies among members of the Caneiro family, likewise occurred outside the presence of the jury, at sidebar. It should also be noted that the trial court overruled the State's objection and allowed Ms. Mastellone to ask the question of whether the police asked Mr. Paolucci if anyone in the Caneiro family exhibited any violence. Mr. Paolucci testified that law enforcement did not ask him that question.

[1] See infra. Point III where the court addresses the substance of the defense's arguments concerning the written submissions process. The discussion here concerns only whether those exchanges occurred in the presence of the jury.

Third, the exchange Ms. Mastellone characterizes as most inflammatory occurred on Trial Day 17 and took place that morning before the jury entered the courtroom.

Fourth, media accounts have no bearing on how the jury perceived the colloquy between the court and Ms. Mastellone. For example, the media was present for Trial Day 17's out-of-presence-of-the-jury argument dealing with the founded discovery violation. The media's reporting on that issue had no bearing on the jury because the jurors were secured in a separate wing of the courthouse at the time. A separate media report concerning an evidentiary ruling during a witness examination will be addressed below.

Fifth, during oral argument, Mr. Murray conceded that any occurrence outside the jury's presence could not have had the capacity to influence the jury. Counsel also agreed that, given the positioning of the court and counsel, and the use of white noise, any sidebar discussions would have been outside the jurors' earshot, particularly where the jurors were instructed on more than one occasion to keep their voices down while sidebars were conducted. The defense accordingly limited its argument to the court's demeanor at sidebar.

Indeed, when cataloged by this threshold issue, the scope of the defense's motion narrows considerably. Reduced to their component parts, the remaining allegations concern a discrete set of interactions that the defense contends were

observable by the jury or capable of influencing its perception of the proceedings. As framed by the defense, those allegations consist of the following:

> 1) The court's alleged impatience, criticism, and hostility toward the defense beginning on the first day of trial;
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> 2) Remarks directed to defense counsel which the defense characterizes as chastising or accusatory;
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> 3) The court's physical demeanor during sidebar conferences, including a flushed complexion, scowling, pointing, and the use of a stress ball, which the defense asserts could be observed from the jury box;
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> 4) Instances in which the court raised sua sponte objections during the defense's questioning;
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> 5) Comments directed to defense counsel during certain cross-examinations; and
>
> 6) The court's rapport with the jury, which the defense contends underscored its perception of the foregoing interactions.

B) Governing Principles and Their Application to the Allegations of Judicial Misconduct

New Jersey has a well-standing tradition of affording trial courts broad discretion in controlling the courtroom and overseeing the conduct of proceedings. State v. Pinkston, 233 N.J. 495, 511 (2018); State v. Lansing, 479 N.J. Super. 565, 572 (App. Div. 2024); State v. Tilghman, 385 N.J. Super. 45, 53-54 (App. Div. 2006) (citing Sullivan v. State, 46 N.J.L. 446, 447 (Sup. Ct. 1884)).

Under Rule 1:1-2, courts are afforded broad discretion over procedural matters. Tilghman at 54; see also State v. Zwillman, 112 N.J. Super. 6, 20-21 (App. Div. 1970) ("Great latitude is given to a trial judge in the conduct of a trial. There

are, however, bounds within which he must stay"). A defendant's Sixth Amendment right to an impartial jury and effective assistance of counsel acts "as a qualifying factor limiting the court's otherwise broad superintending control over the presentation of arguments at trial." Tilghman, 385 N.J. Super. at 54-55.

The New Jersey Rules of Evidence follow in accordance. The rules provide that judges "shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence." N.J.R.E. 611(a) (emphasis added). The purpose of subsection (a) is to make procedures effective for determining the truth, to avoid wasting time, and to protect witnesses from undue harassment. N.J.R.E. 611(a)(1)-(3). Subsection (b) governs the scope of cross-examination and prohibits cross-examinations from varying beyond the subject matter addressed during direct examination. N.J.R.E. 611(b). Stated differently, "a trial judge has discretion to determine the proper limits of cross-examination of a witness whose credibility is put in issue." State v. Tirone, 64 N.J. 222, 228 (1974).

Equally, a trial judge is required to conduct proceedings in a fair and impartial manner, refraining from remarks that might prejudice a party or influence the jury, and must be patient, dignified, and courteous to litigants, jurors, witnesses, and lawyers at all times. Code of Judicial Conduct Canon 3.5, Pressler & Verniero, Current N.J. Court Rules, Appendix to Part I, www.gannlaw.com (2025); Mercer v.

Weyerhaeuser Co., 324 N.J. Super. 290, 297-98 (App. Div. 1999); Cestero v. Ferrara, 110 N.J. Super. 264, 273 (App. Div. 1970), aff'd, 57 N.J. 497 (1971).

A judge is an "imposing figure" whom jurors view as "a symbol of experience, wisdom, and impartiality," thus, the potential for judicial conduct to influence a jury is ever-present, and considerable care is required. State v. Guido, 40 N.J. 191, 208 (1963). A judge must not throw his judicial weight on one side or the other and must never unfairly criticize or humiliate defense counsel in the presence of the jury. Zwillman, 112 N.J. Super. at 21; Weyerhaeuser, 324 N.J. Super. at 298.

Where a defendant asserts the court's conduct was prejudicial, that case must be examined individually, and the verdict will not be disturbed unless the conduct had the tendency to prejudice the complaining party. Cestero, 110 N.J. Super. at 273. A new trial is warranted "[w]here it appears that the trial judge has turned the jury against the defendant by mistreating defendant's counsel." Zwillman, 112 N.J. Super. at 21. No single instance need be sufficient to reach that threshold; all instances of alleged prejudicial conduct are considered in the aggregate. Id. at 22.

This court has conducted a comprehensive review of the record, including, but not limited to, all the specific instances and exchanges excerpted in the defense's brief. This court does not find that its conduct was denigrating or prejudicial to the defense. To the contrary, the record reflects that the court's interventions were consistently responsive to specific and identifiable failures by Ms. Mastellone to

adhere to the court's rulings and New Jersey's Rules of Evidence. During trial, Ms. Mastellone advocated zealously but repeatedly failed to comply with the court's instruction, mischaracterized witness testimony in questions posed, and persisted in lines of inquiry after objections had been sustained and explained.

Indeed, it was Ms. Mastellone's non-compliance that necessitated the court's repeated intervention to maintain the orderly conduct of the trial and to ensure that the presentation of evidence remained within the limits established by law, not judicial hostility or bias. See Cestero, 110 N.J. Super. at 273 (trial courts have an obligation to ensure that cross-examination is kept within reasonable bounds); see also Greenberg v. Stanley, 30 N.J. 485, 500 (1959) (counsel has a duty to abide by a court's ruling to an objection).

Even so, while the defense characterizes many of these exchanges to reflect the court's impatience, patience is not the governing legal standard. It is the court's obligation to ensure compliance with the Rules of Evidence, Court Rules, governing law, not to yield to counsel's preference for a more permissive courtroom.

The relevant inquiry is whether the court's conduct had the capacity to unfairly influence the jury. Atwater, 400 N.J. Super. at 337; O'Brien, 200 N.J. at 535. As explained below, none of the court's conduct, including all conduct identified by the defense, approaches the threshold required for relief under Rule 3:20-1, viewed individually or in the aggregate.

C) Allegations Concerning the Court's Demeanor During Sidebar Conferences

Before addressing the specific interactions, the defense identifies, the court observes the frequency of sidebar conferences during this trial and the defense's characterization of them as evidence of judicial hostility toward the defense. However, the frequency of sidebar conferences reflects this court's commitment to protecting defendant's right to a fair trial rather than evidence of bias against the defense. This case was preceded by extensive motion practice and multiple evidentiary rulings excluding particular subjects and categories of proof. In that setting, sidebar conferences served as a protective function. Rather than ruling in open court when the direction of a question was uncertain, the court frequently called counsel to sidebar to determine the evidentiary basis for the proposed inquiry before any potentially inadmissible matter was placed before the jury. White noise was played at each sidebar. Defendant was provided with a headset through which he could hear the discussion. The jury by contrast could not hear over the white noise.

The record also reflects that these sidebar conferences often resulted in rulings favorable to the defense once counsel articulated an adequate basis for the proposed examination. On January 12, 2026, after Ms. Mastellone explained at sidebar the basis for her questions concerning alleged violent tendencies among members of the Caneiro family, the court overruled the State's objection and permitted the question. Also on January 12, 2026, when Mr. Murray posed a question concerning Ronald

Artiges (hereinafter "Mr. Artiges") and other insurance clients, the court afforded counsel an opportunity at sidebar to explain the relevance of the inquiry before ruling. Furthermore, on January 15, 2026, after further consideration of the legal issue raised by defense counsel's inquiry into whether police had "leveraged" information from the Caneiro family, the court permitted the defense to pursue that line of cross-examination.

These exchanges reflect the court's effort to permit the full scope of legitimate cross-examination while keeping the proceedings within the bounds required by law. With that context established, the court turns to the specific interactions the defense identifies as evidence of angry demeanor at sidebar.

The defense repeatedly cites the court's demeanor and complexion during those bench conferences as evidence of prejudice. Specifically, the defense describes the court's complexion as "flushed" and asserts that the court maintained a "scowling" expression when interacting with defense counsel at sidebar. Def.'s Br. Mot. for New Trial 6–7. According to the defense, jurors observed these visual cues from the bench and interpreted them as expressions of disapproval directed toward defense counsel. The defense further argues that judicial authority can drift from neutrality not only through words but through nonverbal conduct alone, relying on Allen, 290 Ala. at 343. The court finds no merit in this argument for the following reasons.

At oral argument, the court directly addressed this theory. Mr. Murray argued the jury's attentiveness and rapport with the court made it more likely that the jury focused on sidebar interactions and observed the court's demeanor. First, subjectively, the court did not have any hostility towards defense counsel and, therefore, does not feel that it showed any hostility towards defense counsel. Second, objectively, the court has reviewed defendant's submission, including the appendix, and does not find anything in the record to support such a conclusion. Lastly, the court reviewed and analyzed the CourtSmart record[2] independently and finds defendant's assertion lacks merit. Nevertheless, the court has considered the theory arguendo.

The court asked Mr. Murray how the jury could perceive any alleged emotion during sidebar conferences given the physical layout of the courtroom and circumstances of sidebar conference. Sidebar conferences occurred with the court's back to the jury when speaking to the defense, who were positioned to the court's right, while the jury sat to the court's left. The prosecutors stood between the judge and the jury, further obstructing any potential line of site. Importantly, there was white noise playing at each side bar and on multiple occasions the court had to instruct the jury lower their voices because they were talking amongst themselves.

[2] The appendix to this opinion contains a non-certified, unofficial transcript of all relevant on-the-record interactions, which was prepared by the court.

These circumstances demonstrate the jury was not in a position to hear or meaningfully observe the court's facial impressions or demeanor during sidebar conferences. The court expressed these concerns to Mr. Murray, to which he acknowledged his position rested on inference, stating that he could only put forth what counsel observed because he was not the arbiter of what the jury ultimately perceived.

Mr. Murray and Ms. Mastellone held a different vantage point at sidebar, which was opposite to that of the jury's and thus defense counsel's interpretation of the court's demeanor is not representative of what the jury may have witnessed. Accordingly, even entertaining the defense's theory arguendo, the record and physical layout of the courtroom does not support a finding that the jury was able to perceive or be influenced by any alleged court demeanor at sidebar.

As a threshold legal matter, nonverbal judicial conduct constitutes reversible error only where it can be shown to have communicated an unfavorable view of one party to the jury in a way that had the capacity to affect the verdict. Colucci, 326 N.J. Super. at 179. The prejudice must be identifiable; it cannot rest on a chain of attenuated inferences that the record does not support at any link.

Moreover, while the defense is correct that nonverbal conduct can in principle constitute reversible error, the same case it relies upon recognizes that judges are not expected to function as a "stone-cold computer draped in a black robe, set up behind

the bench, and plugged in to begin service." Allen, 290 Ala. at 343. Judges may have natural reactions (frowning at distasteful evidence, expressing displeasure at repeated non-compliance), without those reactions constituting reversible error. Ibid. Impartiality requires indifference to outcome, not the abandonment of all human expression.

This court finds itself in a position similar to the court in State v. O'Conner, where the defendant moved for a new trial on the grounds that the court's facial expressions showed "disgust, amusement, disbelief of defendant, annoyance and temper." 42 N.J. 502, 510 (1964). Like the Court in O'Conner, and consistent with State v. Johnson, 159 N.J. Super. 26, 28 (1978), this court does not find that it displayed purposeful or observable cues of anger toward the defense in front of the jury. Even if any such expression had occurred, a curative jury charge is sufficient to remedy any misconceptions a juror may hold. O'Conner, 42 N.J. at 510-11; Johnson, 159 N.J. Super. at 28; see also State v. Vergilio, 261 N.J. Super. 648, 658 (App. Div. 1993) (holding that a curative instruction need not be given immediately following an inadvertent nonverbal expression but may be delivered at the end of trial). This court will not assume that jurors "who conscientiously serve the high responsibility of jury duty" would disregard their instructions. State v. Curcio, 23 N.J. 521, 527-28 (1957).

Here, the court gave the following charge, which directly addressed sidebar interactions and the jury's obligation to draw no inferences from them:

> FUNCTION OF THE COURT
>
> The function of the judge is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. You must accept the law as given to you by me and apply it to the facts as you find them to be.
>
> During the course of the trial, I was required to make certain rulings on the admissibility of the evidence either in or outside of your presence. These rulings involved questions of law. The comments of the attorneys on these matters were not evidence. In ruling, I have decided questions of law and, whatever the ruling may have been in any particular instance, you should understand that it was not an expression or opinion by me on the merits of the case. Neither should my other rulings on any other aspect of the trial be taken as favoring one side or the other. Each matter was decided on its own merits.
>
> During the course of this trial, there were numerous occasions during which the court conferred with the attorneys at sidebar. These conversations are a normal and necessary part of trials, and are designed to address various legal, procedural, or evidentiary issues that arise during the trial. You must not speculate about the subject matter of any sidebar conference, nor should you draw any inference or conclusion from the fact that a sidebar occurred. Neither should my rulings that result from these conferences be taken as favoring one side or the other. Additionally, you must not consider or evaluate the communication between the court and the attorneys during sidebar conferences for any purpose. Judicial dialogue during legal discussions are not evidence and are not an indication of how the court views the attorneys, the facts of the case, the credibility of any witness, or the guilt or innocence of the Defendant. It is also important to note that attorneys in this case are tasked with providing zealous advocacy, which includes raising objections, making legal arguments, and addressing issues at sidebar.
>
> I may have sustained objections to some questions asked by counsel which may have contained statements of certain facts. The mere fact

> that an attorney asks a question and inserts facts or comments or opinions in that question in no way proves the existence of those facts. You will only consider such facts which in your judgment have been proven by the testimony of witnesses or from exhibits admitted into evidence by the court.
>
> JUDGE'S QUESTIONING
>
> The fact that I may have asked questions of a witness in the case must not influence you in any way in your deliberations. The fact that I asked such questions does not indicate that I hold any opinion one way or the other as to the testimony given by the witness. Any remarks made by me to counsel or by counsel to me or between counsel, are not evidence and should not affect or play any part in your deliberations.
>
> [Final Jury Charge 3-4, (Feb. 12, 2026), State v. Caneiro, (No. 18-4915).]

The court and counsel engaged in at least five rounds of editing the jury charges. On the February 10, 2026 record, both the prosecutor and defense counsel confirmed that they had no objection to any portion of the charge. It should also be noted that defense counsel drafted most of the sidebar charge given to the jury.

At oral argument, the court noted this history and observed no objections had been raised regarding the jury charge. Mr. Murray explained that the defense accepted the charge based on its perception of the proceedings throughout the trial. He further argued that, although it cannot be conceded that the jury failed to follow instructions, the jury had become so negatively disposed toward the defense that it did not take defense arguments seriously. By way of example, Mr. Murray contended that the jury's failure to adhere to the State's suggestion that it find theft

and misappropriation of funds in the $500 to $75,000 range demonstrated bias attributable to the court's conduct. The court remains unpersuaded.

When questioned by the court, Mr. Murray agreed that the court cannot speculate whether the jurors heard any sidebar communication between the court and counsel. Mr. Murray conceded there was no juror affidavit, no post-verdict statement, note, or communication to support the defense's argument.

As noted, a jury is presumed to follow the instructions given by the court. State v. Loftin, 146 N.J. 295, 390 (1996); Feaster, 156 N.J; Curcio, 23 N.J. at 528. at 65. The jury has no obligation to accept the State's theories or recommendations; however, it must follow the court's instructions. Mr. Murray's explanation does not establish that the jury failed in that duty.

Also, at oral argument, the court asked defense counsel to identify specific instances in which the jury could have been negatively influenced at sidebar to defendant's detriment, given the foregoing facts. Mr. Murray asserted that, because the jury held the court in high regard, bolstered by the positive rapport developed during trial, it would have been apparent that the jury observed the court's demeanor and attributed it to defense counsel. The court finds this assertion speculative and unsupported by the record. Further, assuming that the jurors and the court had a good relationship, that should mean the jurors would listen to the court when it said

not to consider any dialogue between the court and counsel in its determination in this case.

Moreover, the defense's theory rests on multiple assumptions not supported by the record. At oral argument, when asked whether any affirmative evidence supported a finding of juror bias, Mr. Murray acknowledged that no such evidence exists. There is no indication that the jury harbored negative feelings toward the defense nor is there evidence that the jury deviated from the court's instructions. The defense identifies no juror affidavit, no post-verdict statement, and no other evidence demonstrating that any juror observed or interpreted the court's facial expressions during bench conferences. The theory further assumes that jurors perceived subtle changes in facial expression or complexion from the jury box and interpreted those observations as signaling judicial disapproval of the defense. The record provides no support for either assumption.

To the contrary, the only evidence in the record bearing on juror attentiveness during sidebars cuts against the defense's position. On multiple occasions during sidebar discussions, the court was required to instruct jurors to lower their voices, as they were speaking amongst themselves while the court addressed counsel. That contemporaneous record of juror inattentiveness during sidebars directly undercuts the hypervigilance the defense's argument asks the court to assume.

Furthermore, at every sidebar the court clerk played white noise to prevent anyone other than the judge and counsel from hearing sidebar conversations. The court has reviewed the CourtSmart audiovisual record and finds that, although it at times expressed displeasure with counsel for both parties, the record does not support a finding that it acted with anger. Further, having the benefit of CourtSmart video recording, during sidebar conferences, counsel approached the bench and stood in a manner that would have limited any observable expressions from the court from the jury's vantage point.

The court now takes in turn each time-stamped reference the defense makes in claiming the court allegedly displayed an angry demeanor at sidebar. It should be noted that during oral argument, Mr. Murray confirmed that the defense did not contest any of the court's underlying evidentiary rulings, only its demeanor. The defense referred to shortened interactions in its brief, and the court finds that looking at the entirety of circumstances that occurred on the record provides necessary context.

1) January 12, 2026: Mr. Paolucci's Testimony

The defense cites a seven-minute interaction on January 12, 2026, the first day of trial, during the cross-examination of Mr. Paolucci characterizing the sidebar conference as an instance in which the court displayed anger toward defense counsel. The exchange arose when Ms. Mastellone asked the witness whether police had

questioned him about whether anyone in the Caneiro family had "tendencies of violence." The State objected, and the court called counsel to sidebar. During the sidebar discussion, the court asked defense counsel to identify the evidentiary basis for the question. Counsel did not cite a rule but explained that she sought to demonstrate investigative deficiencies by asking whether police had explored the possibility that other family members exhibited violent tendencies. The court advised counsel that she was free to question the witness about what investigators did or did not ask him. However, suggesting that a family member possessed violent tendencies required some discernible basis in the record.

This distinction is grounded in N.J.R.E. 611(b), which limits cross-examination to the subject matter of direct examination and matters affecting witness credibility, and in the broader principle that questions may not embed factual accusations that lack an evidentiary predicate. Although the scope of permissible cross-examination bearing on credibility is broad, it is not without limits; counsel may not inquire into any subject. Biunno, Weissbard & Zegas, Current N.J. Rules of Evidence, cmt. 2 on N.J.R.E. 611(b) (2025); see also State v. Gaikwad, 349 N.J. Super. 62, 87 (App. Div. 2002) (finding that a trial judge may properly limit cross-examination to the relevant issues in the case). This principle is reinforced in Pinkston, in which the Supreme Court reasoned, among the trial court's broad discretion in controlling proceedings, that "judges may curtail questioning to avoid

repetition and ensure that the testimony stays focused on relevant issues; they can limit examinations to 'protect witnesses from harassment or undue embarrassment.'" 233 N.J. at 511.

The former line of questioning, what police asked or failed to ask, was permissible on its face. The latter, implying that a specific family member was violent, was not, absent some foundation, in the record. As the discussion continued, counsel identified alleged prior incidents involving Corey Caneiro (hereinafter "Corey"), including arrests and restraining orders. The sidebar also reflected the State's concern that the questioning risked opening the door to other matters involving defendant that had not yet been introduced at trial. The court addressed those concerns while reminding counsel that questions implying factual assertions must have an articulated basis before they are posed to the witness. After hearing counsel's explanation, the court overruled the State's objection and permitted the question. The witness answered it.

As a threshold matter, the entire exchange occurred at sidebar with white noise playing and outside earshot of the jury. The defense's claim of prejudice therefore depends on the theory that jurors nonetheless observed the court's demeanor during the bench conference and interpreted it as disapproval of the defense. The record provides no support for that proposition. The defense identifies no juror affidavit,

post-verdict statement, or other evidence suggesting that jurors observed or interpreted the sidebar interaction.

Even setting that aside, the substance of the exchange does not support the defense's characterization. Trial courts are required under N.J.R.E. 611 to exercise reasonable control over the mode and order of interrogating witnesses, including ensuring that cross-examination does not embed unsupported factual accusations or stray beyond the permissible scope of inquiry. The court's questions at sidebar were directed toward that obligation. Once counsel articulated the basis for the question, the court permitted it.

Finally, the defense's own video submissions undermine the assertion that jurors perceived anything prejudicial. The YouTube recordings supplied in the defense's appendix do not display the interaction between the court and counsel during the sidebar; the camera angle captures only the witness and defendant. In short, the record reflects a routine sidebar discussion regarding the scope of cross-examination that resulted in a ruling favorable to the defense. It does not demonstrate judicial hostility or conduct capable of influencing the jury.

2) January 15, 2026: Craig Flannigan's Testimony

The defense also cites a three-minute interaction during the January 15, 2026 cross-examination of Craig Flannigan, characterizing both the court's in-court

interventions and the ensuing sidebar as reflecting an angry demeanor toward defense counsel.

The issue arose during questioning concerning an artificial intelligence (hereinafter "AI")-generated document marked as Exhibit D-82. Mr. Flannigan testified that the document was not part of his investigative report. Rather, after completing his original report, he had entered the report into an AI program to generate potential questions he might face on cross-examination. The resulting document was inadvertently included in discovery.[3] During the examination, Mr. Flannigan explained multiple times that he did not author the statements in the AI-generated document and did not adopt them as his findings.

Defense counsel nevertheless continued questioning Mr. Flannigan as though the statements in the AI-generated document reflected his conclusions, asking whether he agreed or disagreed with the document's assertions about defendant's statements and injuries. The State objected. The court clarified with the witness that the statements referenced by counsel were generated by an AI program and were not the witness's own words, and the objection was sustained. This ruling was compelled by N.J.R.E. 611(a), which requires the court to prevent examination that proceeds on a false evidentiary premise and by the foundational requirement that a

[3] Mr. Flannigan, in referring to the AI generated document, testified, "that never should have been in that packet," and "I didn't mean to give it to the prosecutor."

witness may only be examined on matters within his personal knowledge. N.J.R.E. 602.

Following that ruling, defense counsel again returned to the same premise, asking the witness whether he agreed or disagreed with the AI-generated statements. The witness again explained that the statements were not his. At that point the court intervened to reiterate that the objection had already been sustained and that the document did not reflect the witness's findings. Permitting continued questioning on a sustained objection would have allowed counsel to place before the jury, through the back door of repeated questioning, content that the court had already ruled inadmissible. N.J.R.E. 611(a) not only permits judicial intervention in those circumstances, it requires it.

Defense counsel then requested sidebar and argued that the witness had effectively adopted the AI-generated document because he had signed it after the defense requested a signed copy during discovery. The court clarified that the signature served only to identify the document as originating from materials associated with the witness's report and did not convert the AI-generated language into the witness's own conclusions. A document does not become a witness's statement by virtue of a signature appended at the request of opposing counsel for authentication purposes. Cf. N.J.R.E. 901 (authentication establishes the identity of a document, not its substantive adoption by the authenticating party). The court then

reaffirmed its ruling and directed counsel to proceed to a different line of questioning.

The sequence reflected a straightforward exercise of the court's obligation under N.J.R.E. 611(a) to control the mode and order of witness examination. Specifically, here, the court's role was to prevent repetitive questioning after a ruling was issued and to ensure that examination does not proceed on a premise the record does not support. A ruling had been issued. The same premise was revisited through successive formulations. The court intervened to enforce compliance consistent with Pinkston, 233 N.J. at 511.

The Appellate Division confronted materially similar circumstances in State v. Richardson, No. A-4021-14T2 (App. Div. June 23, 2017) (slip op.), a non-binding, but instructive unpublished case. There, a judge reprimanded defense counsel to avoid repetitive questions during the examination of police officers. Id. (slip op. at 14-17). When counsel resumed the same covered ground several days after the initial reprimand, the judge grew firm, stating that the testimony did not need to be rehashed. Ibid. As counsel continued, the judge requested sidebar. Ibid. There, the Appellate Division found no reversible error, concluding that the court's response was a lawful exercise of its authority under N.J.R.E. 611(a). Id. (slip op. at 45-46).

Here, as in Richardson, the court's interventions followed repeated questioning after answers had already been given. The rulings enforced the evidentiary rules governing examination of witnesses and ensured that the proceedings remained focused and efficient.

Finally, the defense characterizes the sidebar portion of the exchange as reflecting an angry demeanor. The sidebar, however, occurred outside the presence of the jury with white noise playing. The defense offers no juror affidavit, post-verdict statement, or other evidence indicating that jurors perceived the exchange. In any event, the CourtSmart recording reflects the court attempting to explain its ruling while counsel repeatedly interrupted the explanation. A court that must repeatedly reassert a ruling it has already issued in order to be heard is fulfilling its obligation to maintain orderly proceedings consistent with Rule 1:1-2 and Pinkston, not prejudicing the defense. 233 N.J. at 511. The record therefore does not support the defense's characterization or demonstrate conduct capable of influencing the jury.

D) Allegations Concerning the Court's Conduct During Cross-Examination

The defense further alleges the court made prejudicial remarks and interventions during defense counsel's cross-examinations of several witnesses. The governing framework for evaluating these allegations is well established.

Under N.J.R.E. 611(a), a trial court is obligated to exercise reasonable control over the mode and order of interrogating witnesses so as to make interrogation effective for ascertaining the truth, avoid the needless consumption of time, and protect witnesses from harassment or undue embarrassment. This obligation is mandatory, not discretionary, as the rule provides that the court "shall" exercise such control.

Where a witness has fully answered a question and counsel continues to pose the same inquiry in successive formulations, the court must intervene. Where examination proceeds on a false evidentiary premise or embeds a factual characterization the witness did not offer, the court must act. N.J.R.E. 611(b) further limits cross-examination to the subject matter of direct examination and matters affecting witness credibility, and a trial judge has broad discretion to determine the proper limits of cross-examination of a witness whose credibility is at issue. Tirone, 64 N.J. at 228. Separately, N.J.R.E. 602 bars questions that ask a witness to confirm facts outside the witness's personal knowledge or to build an inference on a factual premise the witness cannot possibly verify.

The Supreme Court of New Jersey has confirmed that the scope of cross-examination rests in the discretion of the trial court, State v. Petillo, 61 N.J. 165, 169 (1972), and has a duty to prevent questioning that wastes time or improperly embeds argument within a question. N.J.R.E. 611(a). Where counsel resumes questioning

along lines previously ruled impermissible, a judge's escalating firmness in response is a lawful exercise of that authority, not evidence of partiality. N.J.R.E. 611(a); Richardson, No. A-4021-14T2 (slip op. at 17).

Where the defense contends that the court's conduct during these interactions was observable by the jury, the controlling inquiry is whether that conduct had the capacity to unfairly influence the jury. Atwater, 400 N.J. Super. at 337; O'Brien, 200 N.J. at 536. Where the defense instead challenges a specific judicial remark as reflecting partiality rather than evidentiary management, the relevant question is whether the court's conduct reflects the kind of antagonism that undermines the fairness of the proceeding, as distinguished from a pointed but legally grounded response to a specific error in questioning. Guido, 40 N.J. 208.

The court addresses in turn each cross-examination interaction identified by the defense.

1) January 15, 2026: Detective Christopher Brady's Testimony

The defense cites an interaction that occurred during the afternoon cross-examination of Detective Christopher Brady (hereinafter "Detective Brady") on January 15, 2026, identifying a one-minute and six-second timeframe in its brief. The portion of the exchange referenced by the defense, however, occurred within a broader sequence of questioning during the examination. This subsection addresses

three discrete judicial interventions during Detective Brady's cross-examination, each grounded in an independent evidentiary basis.

First, during cross-examination, defense counsel recounted Detective Brady's direct testimony but incorporated her own characterizations of that testimony into the questions posed. On direct examination, Detective Brady testified that when he initially asked defendant and his family to come to the station following the fire, their response was that "they wanted to go somewhere to clean up and get a change of clothes." During cross-examination, defense counsel repeated this testimony but added that "a couple of them had run out of the house without shoes that day." Detective Brady clarified that he did not recall who was or was not wearing shoes. Defense counsel then asked the witness whether "what they wanted to do was change into their clothes." At that point, the court intervened and directed the witness to answer what had actually been said to him. Detective Brady responded that the family indicated they wanted "a little bit of time to get cleaned up." The court then instructed counsel not to place words in the witness's mouth. This intervention was warranted under N.J.R.E. 611(b), which limits cross-examination to the subject matter of direct examination and prohibits questions that embed factual characterizations the witness did not offer. See Tirone, 64 N.J. at 228. The distinction between what a witness said and what counsel characterizes the witness

as having meant is precisely the kind of misstatement that N.J.R.E. 611 authorizes the court to correct in real time.

Moments later, counsel returned to the issue while questioning the witness about his report. Referring to a passage describing the family's request for time to clean up and obtain clothes, defense counsel asked the witness whether, when she used the phrase "new clothes," she was "putting words in [his] mouth." The court called counsel to sidebar and clarified that the language counsel was attributing to the witness had not been used in his testimony. The court further instructed counsel to proceed with the examination. Rather than returning to questioning, counsel continued to argue the point at sidebar, prompting the court multiple times to direct counsel to leave sidebar and continue the cross-examination. A court's authority to control sidebar conduct and direct counsel to return to examination is well established. Priolo v. Compacker, Inc., 321 N.J. Super. 21, 29 (App. Div. 1999) (noting that the Supreme Court in State v. Smith, 55 N.J. 476, 483 (1970), acknowledged that "the decision to hear matters at sidebar or in open court, in the presence of the jury, is one within the discretion of the trial court.")

Second, the cross-examination continued with additional questioning regarding surveillance footage from the opposite side of Tilton Drive. Defense counsel asked Detective Brady three times, in varying formulations, why the police had not obtained that footage. Detective Brady answered consistently that the

footage was unavailable. After the same question was asked again, the court directed counsel to "move along." Under N.J.R.E. 611(a), once a witness has fully answered a question, continuing to pose the same question in successive formulations serves no truth-seeking function and the court is obligated to prevent it.

Third, the examination also included a question asking whether police had "leveraged" information from the Caneiro family. That question embedded a characterization of police conduct without establishing a factual predicate for the assertion. The State objected, and the court sustained the objection. After a recess during which the court researched the issue, the court ultimately ruled in the defense's favor on the underlying subject and permitted the defense to explore the issue on cross-examination. That sequence, sustaining an objection to an unsupported characterization and then ruling for the defense after considering the merits, is itself evidence of even-handed judicial management, not bias.

Each of these interventions reflected the court's obligation to regulate the manner of witness examination under N.J.R.E. 611(a) and (b). Trial courts possess broad authority to prevent questions that misstate prior testimony, embed unsupported factual accusations, or simply repeat questions that have already been answered. N.J.R.E. 611(a); see also Tirone, 64 N.J. at 228. The court here included the following: correcting a mischaracterization of testimony, directing counsel to move on from repetitive questioning, and requiring a factual predicate for an

accusatory characterization, all of which fall squarely within that authority. The defense identifies no case suggesting that such routine evidentiary management constitutes judicial misconduct, let alone conduct warranting a new trial.

Finally, the defense characterizes the sidebar interaction as reflecting an angry demeanor toward counsel. The sidebar, however, occurred outside the presence of the jury and with white noise playing. The defense identifies no juror affidavit, post-verdict statement, or other evidence suggesting that any juror observed or interpreted the exchange. The CourtSmart recording likewise reflects a court speaking in a low voice and leaning toward counsel while explaining its ruling. The record therefore does not support the defense's characterization or demonstrate conduct capable of influencing the jury.

2) January 23, 2026: Detective Brian Migliorisi's Testimony

The defense also cites the cross-examination of Detective Brian Migliorisi (hereinafter "Detective Migliorisi") on January 23, 2026 as an instance of a prejudicial judicial remark. Detective Migliorisi was a digital evidence witness whose investigative involvement was limited to forensic extractions from defendant's phone and review of data from Keith Caneiro's (hereinafter "Keith") Google cloud. The last extraction of defendant's phone occurred on November 28, 2018 in Burlington County. His testimony concerned investigative events from 2017 and 2018.

During cross-examination, Ms. Mastellone began a question with the assertion, “It's January 2026, and the defendant is still married,” and attempted to use defendant's present marital status as a predicate for questioning Detective Migliorisi. That premise concerned a time period well outside the scope of the detective's investigation and beyond the limits of his personal knowledge. The court found this question improper and stated to counsel, “You know better than this.”

The intervention was compelled by the Rules of Evidence. Under N.J.R.E. 602, a witness may testify only to matters within the witness's personal knowledge. Questions that ask a witness to confirm facts the witness cannot know are objectionable on their face. State v. Labrutto, 114 N.J. 187, 197-98 (1989); State v. Johnson, 120 N.J. 263, 294 (1990).

A trial court's authority under N.J.R.E. 611(a) to control the mode and order of interrogation includes the authority to halt questioning that violates N.J.R.E. 602. That authority applies where a question seeks testimony about facts that fall outside the witness's knowledge or competence. Detective Migliorisi had no basis to know defendant's marital status in January 2026, and nothing in his testimony suggested otherwise. The question was objectionable on its face. Allowing it to proceed would have placed a factual premise before the jury that the witness was incapable of confirming.

This case was also the subject of extensive pretrial motion practice. Through that process, the court observed that the attorneys involved were experienced practitioners familiar with the Rules of Evidence. The court's statement that counsel "know[s] better" reflected that experience and the obvious nature of the evidentiary defect. The remark addressed the specific question posed. It did not reflect generalized criticism of counsel.

Guido provides guidance in evaluating such remarks. The Court there recognized that judges may intervene during trial and that not every pointed judicial comment constitutes reversible misconduct. 40 N.J. at 207-08. The relevant inquiry is whether the court's conduct demonstrates partiality or antagonism that undermines the fairness of the proceeding.

Nothing in this exchange suggests such conduct. The court's intervention did not express disbelief in the defense case, ridicule the defense before the jury, or signal alignment with the prosecution. The court halted a question that sought testimony on a matter outside the witness's personal knowledge and outside the time frame of the witness's investigation. The ruling enforced the evidentiary limits imposed by N.J.R.E. 602.

For these reasons, the incident does not support the defense's claim that the court abandoned neutrality. The exchange reflects the court's obligation to enforce the Rules of Evidence during witness examination.

E) Alleged Sua Sponte Objections

The defense contends that throughout the trial the court repeatedly sustained its own objections sua sponte against only the defense, doing so with a frustrated tone and demeanor observable by the jury. At oral argument, it was clarified by the defense that it is not challenging the court's evidentiary findings stemming from the alleged sua sponte rulings, but rather the procedure itself. In support of this claim, the defense identifies three instances in its brief: the cross-examinations of

1. Mr. Artiges on January 12, 2026;
2. Detective Debra Bassinder on January 13, 2026; and
3. Officer David Marino on January 14, 2026.

Under N.J.R.E. 611(a), a trial court must exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence in order to make the interrogation effective for ascertaining the truth, avoid needless consumption of time, and protect witnesses from harassment or undue embarrassment. The Supreme Court of New Jersey recognized in Guido that a trial judge "may and indeed in some situations should intervene" when counsel's conduct threatens to undermine the orderly presentation of evidence. 40 N.J. at 207-08. The court further explained that this responsibility exists "notwithstanding that counsel may fail to protest." Ibid.

A sua sponte ruling that correctly enforces the rules of evidence reflects the performance of that judicial responsibility, not an expression of partisan preference.

See State v. Loyal, 386 N.J. Super 162, 174 (App. Div. 2006) (holding "[w]e do not mean to suggest, on the other hand, that the trial court is, absent objection, powerless to intervene in the face of a clearly improper argument or question" and "[s]uch intervention, however, should generally take place at the time of the conduct involved").

1) January 12, 2026: Mr. Artiges's Testimony

The defense cites a January 12, 2026 interaction during the cross-examination of Mr. Artiges, identified by a Law & Crime livestream timestamp of 6:19:05, as an instance in which the court sustained its own objection sua sponte against the defense.

At that point in the examination, Mr. Murray questioned Mr. Artiges about occasions on which Mr. Artiges had called defendant's insurance company while impersonating defendant. Mr. Murray then asked whether it would be safe to assume that Mr. Artiges had similarly called other insurance companies while impersonating other clients. The court intervened and asked counsel how the question was relevant. Counsel approached sidebar and explained the proposed relevance of the inquiry. The court cautioned Mr. Murray that the question was speculative because the necessary foundation had not been laid. Mr. Murray then withdrew the question. Returning to open court, the court addressed the jury directly,

> Ladies and gentlemen, do you remember how I said on Friday that sometimes I have to be a gatekeeper and make

> certain decisions? Even though there was not an objection there, the court had concerns before any more answers were going to come out. That is the reason why that we just went to sidebar … I'm going to sustain my own objection, and that question that was just asked, I want you to use that little pencil, the number two pencil, and I want you to erase that question out of your head. Counsel, go ahead.
>
> [CourtSmart at 2:47:11 p.m. to 2:47:43 p.m. (Jan. 12, 2026), State v. Caneiro, (No. 18-4915).[4]]

The court's intervention was a straightforward exercise of its gatekeeping function. Under N.J.R.E. 401 and N.J.R.E. 403, trial courts must ensure that only relevant and probative evidence is presented to the jury. State v. Chen, 208 N.J. 307, 318-19 (2011). Mr. Murray's question invited the witness to speculate about unrelated insurance transactions involving other clients. No foundation had been laid to establish that such conduct occurred or that it bore any connection to the issues in this case. The court intervened before an answer could be given and addressed the issue at sidebar. Counsel was given the opportunity to articulate a basis for the question. When no foundation was established, Mr. Murray withdrew the question himself.

The court then returned to open court and explained its ruling to the jury. The court identified the intervention as part of its role as a gatekeeper and instructed the jurors to disregard the question. The explanation was given openly and in neutral

[4] See App. to Court's Op. Citation One.

terms. Nothing in that exchange suggested disapproval of the defense or conveyed any view about the merits of the case.

2) January 13, 2026: Detective Debra Bassinder's Testimony

The defense cites a January 13, 2026 interaction during the cross-examination of Detective Debra Bassinder (hereinafter "Detective Bassinder"), identified by a Law & Crime livestream timestamp of 7:45:14, as a second instance in which the court sustained its own objection sua sponte against the defense.

At that time, Mr. Murray was questioning Detective Bassinder about a faxed copy of the Keith Caneiro Irrevocable Trust (hereinafter "the Trust") agreement that had been produced by TD Bank and was missing a page listing potential beneficiaries. Detective Bassinder testified that the document dated back to 1999 and that obtaining complete records from that time period can be difficult. Mr. Murray suggested, based on the page numbering, that the page may have been missing from the document originally transmitted to the bank. He then asked Detective Bassinder whether defendant, as trustee, would necessarily have access to all documents maintained by the bank. Detective Bassinder explained that while a trustee may receive statements and interact with the bank regarding an account, that does not mean the bank would provide every document in its file.

Mr. Murray then pursued a series of questions suggesting that the missing page may have been intentionally withheld when the document was faxed to the bank. The exchange concluded as follows:

> Mr. Murray: Another maybe is maybe whoever faxed that to TD Bank knowing [defendant] was the trustee didn't want to include that beneficiary information in the trust document that they were sending.
>
> Detective Bassinder: I wouldn't know that.
>
> Mr. Murray: Because maybe they didn't want [defendant] to see that he was a potential beneficiary.
>
> The court: Aren't we speculating to someone who has seen that? I'll say it. Speculation, sustained.
>
> [CourtSmart at 4:06:20 p.m. to 4:06:56 p.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).[5]]

This exchange does not support the defense's claim that the court sustained an objection sua sponte. Immediately before the court's comment, the prosecutor is visible on the video rising and gesturing with raised arms. Although the objection itself is not audible on the livestream recording, the prosecutor's conduct indicates that an objection had been made. Although permitted under the Rules of Evidence, the court was not acting unilaterally, rather it was responding to the State's objection. The defense's characterization of this interaction as a sua sponte ruling is therefore inaccurate.

[5] See App. to Court's Op. Citation Two.

However, even if the ruling were viewed as sua sponte, it would still reflect a correct evidentiary determination. Mr. Murray's successive questions asked Detective Bassinder to speculate about the motives of an unidentified person who faxed a trust document years earlier. That subject was outside the witness's personal knowledge and beyond anything established in the record. Under N.J.R.E. 602, a witness may testify only to matters within her personal knowledge, and questions that ask a witness to confirm facts she cannot know are objectionable on that basis alone. Labrutto, 114 N.J. at 197.

The questioning also raised a separate concern. Questions that stack speculative inferences without an evidentiary predicate may be excluded under N.J.R.E. 403, which permits the court to limit testimony when the risk of confusing or misleading the jury substantially outweighs its probative value. The repeated "maybe" formulations here layered one unverifiable inference on top of another. That approach implicated both rules. As the Court explained in Guido, the trial court may intervene in such circumstances, and in some situations it should. 40 N.J. at 208.

The sidebar discussion that followed further reflects the court's effort to facilitate the examination rather than restrict it. The court assured Mr. Murray that he had as much time as necessary to complete the cross-examination and encouraged him to remain attentive to the jury during extended lines of questioning. That

observation was offered to assist counsel, not to constrain him. The court then allowed defense counsel to confer and waited for Mr. Murray to indicate that he was ready to proceed. That accommodation is inconsistent with the defense's characterization of a court aligned against it.

The sequence instead reflects routine courtroom management under N.J.R.E. 611(a), which requires the court to control the mode and order of witness examination so that questioning is effective in ascertaining the truth and to avoid needless consumption of time. Nothing about this exchange supports the defense's claim that the court was sustaining objections only against one side.

3) January 14, 2026: Officer David Marino's Testimony

The defense cites a January 14, 2026 interaction during the cross-examination of Officer David Marino (hereinafter "Officer Marino"), identified by a Law & Crime livestream timestamp of 5:35:27, as a third instance in which the court sustained its own objection sua sponte against the defense.

At that point in the examination, Ms. Mastellone was questioning Officer Marino about statements captured on a body-worn camera during the investigation of the fires. Ms. Mastellone provided Officer Marino with a transcript from the recording and directed him to review the final page in order to refresh his recollection. After Officer Marino read the page, the defense began asking questions about the surrounding conversation. The following exchange occurred:

Ms. Mastellone: So the three of you, and then there's another officer unidentified. You were having a conversation about the circumstances of the fire, correct?

Officer Marino: Well, right above that we were talking about [inaudible] something along the lines of—

Ms. Wallace: Objection.

Ms. Mastellone: I'm not trying to elicit what specific—

Officer Marino: Yeah, I'm trying to—

The court: Can I hear the objection?

Ms. Wallace: It's hearsay. He's reading, about to read what [Officer Bones] said.

The court: Sustained.

Ms. Mastellone: Okay. Yeah, sir, I just wanted to see if this refreshed your memory as to, just like a more broad conversation about the fire.

Officer Marino: It was broader because I'm also, two lines up, talking about a TV show or something.

Ms. Mastellone: Okay.

Officer Marino: So I don't know if that was pertinent to this right here or if there's something else because there's also [inaudible] you can see other things are being spoken about right here.

Ms. Mastellone: Okay, well I'm going to direct your attention to what Officer Bones says here. Just read this one line.

Officer Marino: Okay.

Ms. Mastellone: He's talking about the house, correct?

Ms. Wallace: Judge, I'm going to object to the hearsay.

The court: Sustained.

Ms. Mastellone: The subject of the conversation is the house fire. Is that fair to say?

> The court: It's still hearsay. Sustained. You're asking him what it says on there. Sustained.
>
> Ms. Mastellone: What is the topic of the conversation that you're having with the other officers?
>
> Ms. Wallace: Objection, your Honor.
>
> The court: It's still sustained.
>
> Ms. Mastellone: In reference—in referencing the fire, you say, "I think it's messy."
>
> Officer Marino: Again, I don't know if I was speaking about the fire or if I was talking about a TV that I was talking about four lines above this. I'm not sure if I was referring to that or if I was speaking to one of these other officers or if I was speaking directly to [Officer Bones].
>
> Ms. Mastellone: Okay, so you're saying you're unsure because a few lines above, you're mentioning a TV show. And then two lines later, Officer Bones mentioned something else—
>
> Ms. Wallace: Objection.
>
> Ms. Mastellone: I didn't say what the something else was.
>
> The court: Will you just talk to me? Don't comment to each other. I have made it clear that anything that Officer Bones may be talking about and/or the topic and/or insinuating the topic is hearsay. So therefore, I'm going to sustain the objection.
>
> [CourtSmart at 1:57:01 p.m. to 1:59:19 p.m. (Jan. 14, 2026), Caneiro, (No. 18-4915).[6]]

The transcript does not support the defense's characterization. In a span of just over two minutes, the State raised four hearsay objections to essentially the same line of questioning. The court sustained the first two objections raised by the State

[6] See App. to Court's Op. Citation Three.

before explaining that Ms. Mastellone's subsequent reformulations of the question remained hearsay. Even after that clarification, the questioning continued in substantially the same form, prompting two additional objections by the State. The record therefore does not support the claim that the court was interjecting objections on its own initiative. The court was responding to repeated hearsay objections raised by the State. The defense's reliance on the isolated timestamp omits that surrounding context.

The questioning also presented a recurring evidentiary problem. Ms. Mastellone sought to elicit the substance or topic of statements made by Officer Bones, a non-testifying third party, through the questioning of Officer Marino. Regardless of the formulation used, whether asking what Officer Bones "said" what he was "talking about" or what the "topic" of his statements was, each question required Officer Marino to repeat or characterize an out-of-court statement made by a declarant not subject to cross-examination. That is hearsay under N.J.R.E. 801 and 802.

The fact that each successive question was phrased differently did not alter its evidentiary character. Under N.J.R.E. 611(a), when questioning repeatedly seeks to introduce the same inadmissible statement through varied phrasing, the court must intervene in order to make interrogation effective for ascertaining the truth and to avoid the needless consumption of time. N.J.R.E. 611(a)(1)-(2). As the Supreme

Court of New Jersey recognized in Guido, the court's duty to protect the integrity of the proceedings exists notwithstanding that counsel may continue to press the point. 40 N.J. at 208.

During the exchange, Ms. Mastellone also directed a remark to the prosecutor rather than addressing the court in response to an objection. The court instructed counsel to direct responses to objections to the court rather than to opposing counsel, which is a basic principle of courtroom procedure, and then explained the basis for the ruling. That instruction reflects ordinary courtroom management consistent with Rule 1:1-2 and does not support the defense's characterization of judicial hostility.

In sum, the three examples identified by the defense do not establish that the court was making its own objections against the defense. On January 12, 2026, the court exercised its gatekeeping function under N.J.R.E. 401 and 403. On January 13, 2026 and January 14, 2026, the court sustained objections raised by the State, each of which was independently correct under N.J.R.E. 602, 403, and 802. From the standpoint of a juror observing these exchanges, the record reflects routine evidentiary rulings and courtroom management. It does not reveal facial expressions, tone, or demeanor that would have conveyed disapproval of the defense or influenced the jury's deliberations.

F) Allegations Concerning the Court's Discovery Ruling and February 10, 2026 Oral Argument

The defense alleges that on February 9, 2026, the court "sua sponte accused the defense of a discovery violation" following a hearsay objection by the State during the cross-examination of Katelyn. Def.'s Br. Mot. for New Trial 7. The record does not support that characterization.

During direct-examination, Ms. Mastellone questioned Katelyn about whether Jesse Caneiro (hereinafter "Jesse") had shared the location of his iPad with her. Katelyn testified that he had. Ms. Mastellone then asked Katelyn whether she had ever checked the location of the iPad after the murders. Katelyn testified that she had checked it in February 2019. Ms. Mastellone next asked where the iPad was located when Katelyn checked it. The State objected on hearsay grounds, and the court called counsel to sidebar. The following exchange occurred:

> [SIDEBAR ON]
>
> The court : Okay. What are you relying upon? Just so that I know.
>
> Ms. Mastellone: What do you mean what am I relying upon?
>
> The court: You're saying it was a shared location. What are you relying upon? Does she have something in her phone that you are saying that has that location or? Tell me what —
>
> Ms. Mastellone: No, this is just what she said, that she checked the location, and when she checked the location, it was at Corey's house. And she, the rest is that she was eliciting the, or asking Corey about it. But this is way after. It just shows that …

> The court: Ms. Mastellone, this is insane. Okay. Ladies and gentlemen, can you do me a favor? Can you go into the [jury] room? Please don't discuss the case or do any research? [Pause.] I'm going to take a break before I address this issue.
>
> [SIDEBAR OFF]
>
> [CourtSmart at 3:26:23 p.m. to 3:27:44 p.m. (Feb. 9, 2026), Caneiro, (No. 18-4915).[7]]

The defense's claim that the court accused counsel of a discovery violation during this exchange is not supported by the record. At sidebar, the court asked counsel what evidentiary basis she was relying upon for the testimony. When it became apparent that the testimony involved location information that had not previously been disclosed, the court excused the jury and called a recess to address the issue. The only portion of this exchange that occurred while the jury was present lasted approximately thirty seconds, took place at sidebar with white noise playing, and contained no reference to any discovery violation whatsoever.

Earlier in the same examination, the defense had also introduced for the first time a screenshot taken by Katelyn of an iMessage she sent to Jennifer Caneiro (hereinafter "Jennifer") on November 20, 2018 at 10:26 a.m. The message read, "[W]here are you?" Katelyn testified that she sent the message after learning there was also a fire at Jennifer's home. Katelyn further testified that she had recently reviewed the message for the first time since 2018 and noticed that it now appeared

[7] See App. to Court's Op. Citation Four.

as "Read." When she originally sent it, the message showed "Delivered." Katelyn testified she did not know when the status changed and that she was surprised because Jennifer had died before she could have read the message. Ms. Mastellone possessed a printed screenshot of the message and used it to refresh Katelyn's recollection. It was the first time the State had been shown the screenshot, and the court was likewise unaware of its existence.

After the jury was excused for the day, the court placed the issue on the record:

> Due to a proffer that was provided — based upon an objection by the State, research was done on [State v. Tier, 228 N.J. 555 (2017)]. I'm not sure that State v. Tier contemplated this scenario that we are in, in this case as it related to this type of evidence. So, everybody knows what the proffer was, based upon what Ms. Mastellone said at sidebar. So, that's the issue that I need briefed as to where we are going. And then I'll ask everyone to be back here at 8:00 a.m., and I will come out soon thereafter and I'll hear oral argument at that time. But again, submissions to me by ten o'clock tonight, no later. If it comes in at 10:01 [p.m.] I'm not accepting it. And we'll see where we are at that point in time. Now, I'll see attorneys at sidebar, please.
>
> [CourtSmart at 4:06:28 p.m. to 4:07:42 p.m. (Feb. 9, 2026), Caneiro, (No. 18-4915).[8]]

At sidebar, the court asked Ms. Mastellone whether there were any additional proffers that would need to be addressed. Ms. Mastellone indicated there were not, and the court dismissed counsel for the day. When the jury briefly returned that

[8] See App. to Court's Op. Citation Five.

afternoon, the court reminded them not to discuss the case or conduct research and instructed them not to attempt to resolve legal issues themselves. The court explained that the jury's role was to determine facts and that questions of law would be decided by the court. No reference to a discovery violation or any alleged misconduct by the defense was made in the presence of the jury.

The following morning, the court conducted oral argument entirely outside the presence of the jury. The State argued that the defense's failure to disclose both the screenshot and the location information regarding Jesse's iPad violated the discovery obligations contemplated by Tier and the discovery rules governing electronically stored information. The State sought exclusion of the evidence and a curative instruction directing the jury to disregard the testimony. Ms. Mastellone responded that the screenshot had only been provided to her the day before Katelyn testified and that she had relied on Katelyn's verbal account rather than the physical document. As to the iPad testimony, the defense argued it was relevant to establish that Corey had removed items from Keith's home after the murders, furthering the defense theory that the crime scene had been contaminated, as insinuated during the cross-examination of Detective Vogt. The defense further argued that the State's failure to seize and search Jesse's iPad, while seizing and searching Sophia Caneiro's (hereinafter "Sophia") cell phone, demonstrated a failure to investigate potentially exculpatory evidence.

During argument, the court observed that Ms. Mastellone's submission the night prior marked the first instance in which the court had been presented with documentation that might corroborate whether Corey had taken Jesse's iPad. The court further noted that the prior testimony did not clearly establish that the iPad belonged to Jesse and that the record lacked contextual development regarding how long the iPad may have been at Corey's house because the testimony had been interrupted by the State's objection. The court then asked Ms. Mastellone whether she would agree that the screenshot was an electronically stored document within Katelyn's phone. Ms. Mastellone acknowledged that from the moment she received the screenshot, it was electronically stored information but maintained that she did not intend to use the physical document at trial and instead planned on relying on Katelyn's verbal testimony, thus no disclosure obligation arose. The court disagreed, finding that counsel possessed the screenshot, knew that Ms. Mastellone intended to elicit the underlying information through testimony, and had ample opportunity to disclose it to the State before Katelyn took the stand. The court found that the defense had violated its discovery obligations under Rule 3:13-3(b)(2)(B) by failing to disclose electronically stored information within its possession, and that the circumstances did not fall within the contemplation of Tier.

As a remedy, the court permitted the defense to elicit the fact that the iPad had been removed from the home but struck the location information from the record.

The parties drafted a stipulation that was read to the jury at the end of the day. As to the screenshot, the court offered the State latitude during cross-examination to explore how and when it was taken, and the State declined a continuance.

Three aspects of this incident are dispositive.

First, the relevant proceedings occurred outside the presence of the jury. The sidebar discussion lasted only seconds before the jury was excused. The subsequent briefing and oral argument occurred entirely outside the jury's presence. The jurors neither heard nor observed the exchange. Under Atwater, the inquiry in evaluating alleged judicial misconduct focuses on conduct that had the capacity to influence the jury. 400 N.J. Super. at 337. Conduct the jury did not observe cannot satisfy that standard as a matter of law.

Second, the court's ruling addressed a legitimate evidentiary dispute grounded in the defense's own conduct. Counsel possessed a screenshot reflecting a materially different factual result from the extraction data on which she had relied during questioning yet chose to present the jury with the contrary result without disclosing the screenshot to the State. The court addressed that specific conduct. Its ruling was not an attack on counsel; it was a merits determination on an evidentiary problem that counsel's own choices created.

Third, the defense characterizes the court's language as an unprovoked attack on Ms. Mastellone. The exchange was directly precipitated by counsel's conduct,

and the CourtSmart recording reflects that counsel reacted by rolling her eyes in response to the court's ruling. A court's firm response to conduct that implicates discovery obligations and courtroom decorum does not constitute judicial hostility. But cf. Zwillman, 112 N.J. Super at 22 (finding that the trial court's conduct toward defense counsel prejudiced the defendant, factoring in the consideration that "[n]owhere in the long record is there any indication that defense counsel provoked the court").

The defense relies heavily on Guido, but the comparison underscores why that decision does not support relief here. In Guido, the trial court compelled defense counsel to produce an original expert report and then, in the presence of the jury, interrogated counsel about whether she had attempted to mislead the court by altering it. 40 N.J. at 199–202. The prosecution then reinforced the accusation during summation by telling the jury that defense counsel had been "in cahoots" with the experts and had perpetrated a fraud on the court. Id. at 201. The trial court did not intervene to stop that argument. Id. at 202. The Supreme Court of New Jersey concluded that the jury had been presented with a spectacle in which the court itself appeared to accuse defense counsel of dishonesty in their presence. Id. at 199-200.

Nothing comparable occurred here. The exchange at issue occurred before the jury entered the courtroom. The jury never heard the discussion. The court did not interrogate counsel about fraud before the jury, and the State did not reference

the exchange during summation. What occurred in Guido was a public accusation of fraud before the jury that the prosecution then reinforced in summation. What occurred here was a private evidentiary ruling made before the jury entered the courtroom, grounded in the defense's own failure to disclose.

For these reasons, the exchange on Trial Day 17 does not support the defense's claim that the court abandoned neutrality or deprived defendant of a fair trial. The court did not accuse the defense of a discovery violation. It found one. Because the jury was not present during any part of the relevant proceedings, defendant was not prejudiced.

G) Alleged Judicial Commentary on Witness Credibility

The defense separately contends that during the same February 10, 2026, oral argument proceedings addressed in Section B above, the court was critical of the credibility of defense witnesses. The defense cites timestamps of 7:20:05 to 7:20:47, 7:21:40 to 7:22:00, and 7:23:06 to 7:23:30 from the Law & Crime livestream recording on February 10, 2026. Those timestamps correspond to a discussion that occurred outside the presence of the jury concerning whether the jury should be permitted to see the screenshot of the iMessage between Katelyn and Jennifer that appeared marked as “Read.”

The court ultimately declined to admit the document into evidence but permitted both parties to reference it during summations if they chose to do so.

During the course of that ruling, the court observed that it was not the court's role to determine whether Katelyn was telling the truth and that the existence of the document and the fact that the witness testified under oath did not automatically establish the truthfulness of her testimony.

The defense's argument fails at the threshold because the exchange occurred entirely outside the presence of the jury. Under Atwater, the relevant inquiry in assessing alleged judicial misconduct is whether the conduct had the capacity to influence the jury. 400 N.J. Super. at 337. Conduct the jury did not observe cannot satisfy that standard.

The court's comments also reflected a routine exercise of its evidentiary responsibilities. When ruling on the admissibility of evidence, a trial court must evaluate the relevance and probative value of the proffered material. N.J.R.E. 401; N.J.R.E. 403. In doing so, the court necessarily considers the reliability and context of the evidence being offered. Observing that a witness's testimony is not automatically credible simply because it is given under oath reflects a basic evidentiary principle. It does not constitute a finding that the witness was untruthful, nor does it represent criticism of the defense. Courts routinely make such observations when determining whether particular evidence should be presented to the jury, and judicial intervention to preserve the integrity of the evidentiary record is a normal part of trial management. Chen, 208 N.J. at 318-19; Guido, 40 N.J. at

208. The exchange does not support the defense's claim that the court undermined the credibility of defense witnesses.

H) Media Coverage and Alleged Juror Influence

The defense also argues that media coverage of the trial demonstrates that the incidents described above must have influenced the jury. In support of that claim, the defense provided the court with a list of articles and media publications written during the trial, compiled in Appendix C. The court does not find this argument persuasive.

The defense's theory rests on the premise that jurors were exposed to media coverage and were influenced by it. The record does not support that premise. From the outset of the trial and throughout its duration, the jury was repeatedly instructed not to consume any media coverage concerning the case. Jurors are presumed to follow the instructions given to them by the court. Loftin, 146 N.J. at 390; Feaster, 156 N.J. at 65; Curcio, 23 N.J. at 528. That presumption is not overcome by speculation. It requires affirmative evidence that a juror was actually exposed to and influenced by outside information. See generally State v. Williams, 93 N.J. 39, 63 (1983). The defense identifies no juror affidavit, post-verdict statement, or other evidence suggesting that any juror disregarded those instructions and therefore provides no basis to rebut that presumption.

Even apart from that threshold issue, the media's exposure to the proceedings differed significantly from that of the jury. Members of the press observed proceedings conducted in open court, including exchanges that occurred outside the presence of the jury, most notably the Trial Day 17 exchange, which generated significant public attention. By contrast, jurors were removed from the courtroom during those discussions and did not observe them. The media therefore witnessed interactions and procedural developments that the jury never saw, making the media's reaction to those events legally irrelevant to the question of juror prejudice.

The media's interpretation of courtroom exchanges is also not a reliable proxy for how jurors perceived the proceedings. Media reporting necessarily reflects editorial decisions about what is newsworthy and how events should be characterized for public consumption. Jurors, in contrast, receive detailed legal instructions explaining the court's role in ruling on evidentiary issues, the function of sidebar conferences, and the requirement that interactions between the court and counsel not be considered evidence or expressions of judicial opinion. State v. Josephs, 174 N.J. 44, 109 (2002). The public and the media receive no such instruction and therefore cannot serve as a measure of how a properly instructed jury understood the same events.

Finally, jurors are repeatedly reminded that their verdict must be based solely on the evidence presented in court and the law as instructed by the court. They are

instructed to avoid outside influences and not to consult media coverage of the trial. The court therefore finds the defense's reliance on media commentary to be speculative and legally insufficient. Media coverage of a trial does not establish that jurors were influenced by it, nor does it demonstrate prejudice to a defendant. State v. Biegenwald, 106 N.J. 13, 35 (1987).

I) The Court's Rapport with the Jury

The defense also criticizes the court's rapport with the jury during the trial. According to the defense, the court's occasional jokes, questions to the jurors, and informal exchanges at the beginning of the day or during breaks created a positive relationship between the court and the jury which, when contrasted with the court's rulings against the defense, suggested that the court disapproved of the defense. The defense relies on O'Brien, in arguing that defendant effectively faced not one adversary but two. Def.'s Br. Mot. for New Trial 8-9. That argument is not supported by the record.

The inquiry under O'Brien focuses on whether a court's conduct conveyed to the jury that the court was aligned against a party on the merits of the case. 200 N.J. at 539-40. That standard requires more than a showing that the court treated jurors and counsel differently. It requires evidence that the court's conduct signaled to the jury a view about the guilt or innocence of the defendant or the credibility of the defense. Ibid.; Zwillman, 112 N.J. Super. at 21. The defense's prior arguments

asserting judicial hostility have been addressed individually above. In each instance, the record demonstrates that the challenged conduct occurred outside the presence of the jury, involved routine evidentiary rulings grounded in the New Jersey Rules of Evidence, or both. The defense's rapport argument therefore attempts to draw an inference of prejudice from conduct that has already been found not to reflect judicial partiality and adds nothing to that analysis.

A trial judge's interaction with jurors must also be viewed in the context of the trial itself. This proceeding was projected to last approximately three months and involved complex and distressing evidence concerning four homicides. Jurors were asked to sit five days a week from 8:00 a.m. to 5:00 p.m. for an extended period of time. Securing jurors willing to make such a commitment and maintaining their engagement and well-being throughout the trial were legitimate judicial concerns. Courts have long recognized that maintaining juror attentiveness and morale during lengthy and emotionally demanding proceedings is part of the court's responsibility to ensure a fair trial and falls within the it's broad discretion to manage the conduct of the proceedings. State v. Mohammed, 226 N.J. 71, 75 (2016).

Courts routinely maintain a respectful and professional rapport with jurors in long and demanding trials. Limited light-hearted interaction, such as brief questions or casual remarks at the beginning of the day or before breaks, helps sustain juror engagement and attentiveness during lengthy proceedings without conveying any

view regarding the merits of the case. There is nothing in the record to suggest these interactions communicated anything about the guilt or innocence of defendant or the credibility of either side's case, which is the relevant inquiry under O'Brien and Zwillman.

The court repeatedly reminded the jury that it held no opinion regarding the outcome of the case and that interactions between the court and counsel were not evidence and should not be interpreted as expressions of the court's views. Those instructions are presumed to have been followed. Loftin, 146 N.J. at 390; Feaster, 156 N.J. at 65; Curcio, 23 N.J. at 528. The defense identifies no juror affidavit, post-verdict statement, or other evidence suggesting that any juror interpreted the court's rapport with them as hostility toward the defense or as a signal about the merits of the case. Without such evidence, the defense's theory of prejudicial conduct from the court rests on precisely the kind of attenuated inference that Rule 3:20-1 protects against. See Terrell, 425 N.J. Super at 688-69 (reaffirming Rule 3:20-1 requires clear and convincing evidence there was a manifest denial of justice under the law).

The defense further argues that the court's use of a stress ball during trial, and specifically the court's invitation on the third day of trial for jurors to "keep an eye" on how it was used, amplified the contrast between the court's warmth toward the jury and its alleged hostility toward the defense, effectively priming the jury to

interpret any subsequent use as a coded expression of judicial displeasure. The record does not support that inference.

Nonverbal judicial conduct can constitute reversible error, but only where it can be shown to have communicated an unfavorable view of one party to the jury in a way that had the capacity to affect the verdict. Colucci, 326 N.J. Super. at 179. The prejudice must be identifiable in the record and cannot rest on a chain of attenuated inferences that the record does not support at any link. Terrell, 425 N.J. Super at 688-69. Where counsel fails to raise a contemporaneous objection to alleged nonverbal judicial conduct, that failure is itself significant; if the conduct were genuinely perceived as prejudicial at the time it occurred, the professional obligation was to raise it in the moment. Timmendequas, 161 N.J. at 576.

On January 14, 2026, the third day of trial, the court made a brief remark to the jury at the outset of the morning session, before the indictment number had been read into the record, before the case had been introduced, and before counsel had entered their appearances. Specifically, the court began the morning session by greeting the jury. The court stated, "Good morning. Please be seated," to which the jury responded, "Good morning." CourtSmart at 8:31:12 a.m. to 8:31:15 a.m. (Jan. 14, 2026), Caneiro, (No. 18-4915).[9] The court then remarked:

[9] See App. to Court's Op. Citation Six and Seven.

> [T]hat's what I love to hear.[10] Somebody in my staff thought that I needed a stress ball. I picked the soft one, there was soft, medium and I guess harder. So, I am going to see how I do with this. You guys can keep an eye on me and see how I'm doing, all right. I am glad you all made it back. I appreciate that.
>
> [CourtSmart at 8:31:16 a.m. to 8:31:40 a.m. (Jan. 14, 2026), Caneiro, (No. 18-4915).[11]]

In footnote three of the defense's brief, only part of this exchange is reproduced. The full record shows that the remark occurred at the very start of the morning session, before the court had read the indictment number into the record, introduced the case, or asked counsel to enter their appearances. The comment had nothing to do with the substance of the trial, the parties, or the examination of any witness. It preceded the commencement of proceedings entirely and was directed at maintaining juror engagement throughout what both parties had projected would be a three-month trial.

No counsel objected to the court possessing or referencing the stress ball nor did any party suggest at the time that its use could prejudice defendant. At no point thereafter did the court refer to the stress ball in connection with the trial, defendant, or defense counsel.

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[10] The court made this remark immediately after the jurors entered the courtroom and collectively greeted the court with a loud "good morning," as they routinely did at the start of each trial day.

[11] See App. to Court's Op. Citation Six and Seven.

The disclosure occurred openly in the presence of all jurors at the same time. It was not accompanied by any statement linking the object to any party, counsel, or position in the case. The court neither suggested that it would use the stress ball in response to particular testimony or examination conduct nor did it indicate that its use reflected frustration with any participant in the proceedings. The argument that jurors were invited to monitor the stress ball as a signal of judicial displeasure appears for the first time in the post-verdict motion for a new trial. It was never raised during the six weeks of trial.

The defense's theory is unsupported at every link in the chain it requires the court to accept. The record contains no evidence that any juror recalled the court disclosing it had a stress ball on Trial Day 3. That possibility is especially diminished after weeks of a trial involving ballistic evidence, DNA analysis, financial records, and medical examiner testimony; no evidence that any juror monitored the stress ball's use during witness examinations; no evidence that any juror attributed any observed use to frustration with defense counsel rather than to the ordinary demands of managing a lengthy proceeding; and no evidence that any such attribution entered into the jury's deliberations on charges of murder, arson, and related offenses. The defense cites nothing establishing any one of these predicates, let alone all four.

Moreover, the stress ball was not concealed from the jury; the court itself disclosed its presence and provided a neutral explanation of its purpose. A reasonable juror who later noticed the court using the object would recall that explanation and attribute its use to the ordinary demands of a lengthy proceeding, not to coded displeasure directed at one side. The defense's theory requires the opposite conclusion: that jurors disregarded the explanation provided and instead interpreted the object as a hidden signal directed against the defense. The transparent disclosure is, in this respect, a complete answer to the defense's argument: there is no encoded signal where the sender has already told the recipients what the signal means.

The physical configuration of the courtroom further undermines the defense's claim. The bench is not positioned in the same sightline from the jury box to counsel table, and it is not adjacent to the witness stand. Any incidental use of the stress ball during witness examination would not have been readily observable in the manner the defense suggests.

The defense's remaining rapport observations are similarly insufficient. The defense points to jurors smiling, waving, or saying goodbye to the court at the end of each trial day, and specifically references an instance in which Juror 9 allegedly winked at the court. Such ordinary social interactions are not evidence of partiality. Jurors often acknowledge the court at the conclusion of a trial day as a matter of

basic courtesy, particularly in a proceeding of this length and intensity. The court finds the defense's reliance on these interactions to be speculative and legally insufficient to support a finding of prejudice.

For these reasons, the court does not find that its rapport with the jury, including the light-hearted disclosure of the stress ball on Trial Day 3, undermined defendant's right to a fair trial.

III. CONCLUSION: CUMULATIVE ERROR ANALYSIS

Cumulative error may warrant a new trial where legal errors, taken together, rendered a trial unfair. State v. Wakefield, 190 N.J. 397, 537–38 (2007). The predicate for relief is whether "the probable effect of the cumulative error was to render the underlying trial unfair." Id. at 538. No single instance must independently satisfy that standard; the court evaluates all alleged instances of prejudicial conduct collectively. Zwillman, 112 N.J. Super. at 22.

Applying that standard here requires organizing the defense's allegations into their proper legal categories, because not all of the incidents identified by the defense are legally capable of contributing to a cumulative prejudice finding. The governing principle is straightforward. Only conduct that the jury was able to observe has the capacity to influence the jury. Atwater, 400 N.J. Super. at 337; O'Brien, 200 N.J. at 535. Conduct that occurred outside the jury's presence cannot be combined with in-

jury conduct to produce a prejudice finding that neither category independently supports.

When the defense's nine allegations are evaluated through that framework, three categories emerge.

The first category consists of incidents that occurred entirely outside the presence of the jury. The exchange on the seventeenth day of trial concerning the screenshot Katelyn took and the iPad location, the Paolucci sidebar, the ex parte proffer letter discussions, the court's comments on witness credibility during the February 10, 2026 evidentiary ruling, and the media coverage incidents all fall within this category. As discussed throughout this opinion, each of those exchanges either occurred before the jury entered the courtroom, took place at sidebar with white noise playing while the jury was removed, or involved proceedings from which the jury was entirely excluded. These incidents therefore carry no legal weight in a cumulative prejudice analysis, regardless of how many are aggregated. Combining them with any in-jury conduct would increase the number of complaints asserted by the defense but would not add legal significance. Wakefield, 190 N.J. at 538.

The second category consists of in-jury interventions that were substantively correct and grounded in specific evidentiary authority. The "move along" direction during Brady's cross-examination was required by N.J.R.E. 611(a) after the same

question had already been answered three times. The interventions during Flannigan's cross-examination were compelled by the same rule after counsel continued to question the witness on a subject the court had already ruled inadmissible. The "you know better than this" remark during Migliorisi's cross-examination responded to a question that was objectionable on its face under N.J.R.E. 602 because it relied on a factual predicate outside the witness's personal knowledge. The alleged sua sponte interventions during Mr. Artiges', Detective Bassinder's, and Officer Marino's questioning were each grounded in N.J.R.E. 401, 403, 602, and 802. A correct ruling does not become reversible error in the aggregate simply because it was delivered with impatience or firmness. Guido, 40 N.J. at 208; Zwillman, 112 N.J. Super. at 21.

The third category concerns the stress ball. As addressed in Section II, Subsection I, this claim depends on a sequence of four inferences that the record does not establish. The court disclosed the stress ball to the jury openly on the third day of trial, provided a neutral explanation of its purpose, and never referenced it again in connection with the trial, the parties, or any witness examination. No contemporaneous objection was raised during the six-week trial. Combining an inference that lacks support in the record with other categories of conduct does not transform it into evidence of prejudice.

When those three categories are properly evaluated, what remains is a series of brief procedural rulings during a six-week trial. The most pointed exchanges occurred outside the presence of the jury and were directed at one attorney's specific conduct during witness examinations. The record also reflects conduct that undermines the defense's portrayal of a court aligned against it. When defense counsel requested additional time to prepare before trial began, the court granted that request and postponed the trial to ensure counsel was prepared and that defendant received a fair proceeding. During the months preceding trial, the court monitored discovery closely and repeatedly confirmed that both parties had the materials they required. During trial, the court consistently called attorneys to sidebar before issuing rulings in front of the jury, removed the jury when evidentiary disputes required extended discussion, issued regular curative instructions addressing sidebar interactions and the court's neutrality, and alerted both parties when juror attention appeared to be fading during extended examinations. When the court learned on January 23, 2026, that defense counsel believed the court had been impatient, the court expressed surprise, used the lunch recess to consider the matter carefully, and addressed it outside the presence of the jury. These actions do not reflect a court aligned against the defense.

The court also delivered an extensive curative instruction addressing sidebar interactions and directing the jury to draw no inference from exchanges between the

court and counsel. That instruction was edited through five rounds of revisions with counsel, and both the prosecutor and defense counsel confirmed on the February 10, 2026 record that no portion of the charge was objected to. Jurors are presumed to follow their instructions. Loftin, 146 N.J. at 390; Feaster, 156 N.J. at 65; Curcio, 23 N.J. at 528. The defense identifies no juror affidavit, post-verdict statement, or other evidence suggesting that the jury disregarded those instructions or drew adverse inferences from the court's conduct.

Further illustrating this point, when this court observed during trial that certain remarks made by the prosecutor during summation walked a fine line, the court offered to provide a curative instruction to address any potential prejudice to defendant. Defense counsel declined that offer. A court that volunteers a curative instruction to protect a defendant from prosecutorial excess, sua sponte, is not a court that had thrown its weight against the defense.

The aggregate effect of the court's conduct does not approach the threshold established in Guido, O'Brien, or Weyerhaeuser. Each of those cases involved in-jury conduct that directly undermined the defense before the jury, whether through public accusations of fraud, open alignment with the prosecution, or repeated disparagement of defense counsel on the merits of the case. No comparable conduct occurred here. The court's interventions addressed specific and recurring evidentiary

problems during witness examinations and did not communicate any view about the merits of defendant's case to the jury.

The court is also mindful of the evidentiary record the jury considered. That record included ballistic evidence establishing that the bullets that killed Keith were fired from a gun barrel found in defendant's backpack; DNA evidence placing the blood of two victims on clothing located in a concealed burn pile in defendant's basement; defendant's deliberate disabling of his home surveillance system in the hours before the crimes; a documented two-year pattern of financial exploitation of the decedent through theft from the Trust; and evidence showing that the decedent had confronted defendant about the theft hours before he was killed. The jury deliberated carefully and returned its verdict in under five hours. A verdict of that character, in a case supported by evidence of this weight, is not the product of a court that threw its weight against the defense. Conway v. State, 193 N.J. Super. 166, 174 (App. Div. 1984).

For all of these reasons, a new trial based on an alleged denigration of defense counsel before the jury is not warranted. Zwillman, 112 N.J. Super. at 22. Throughout the trial, the court relied on the New Jersey Rules of Evidence and its inherent authority to manage its courtroom. Judicial intervention occurred when defense counsel did not adhere to the court's rulings, and each intervention was

grounded in specific and correct evidentiary authority. Defendant received a fair trial.

POINT II: DEFENSE REQUESTS MOTION FOR A NEW TRIAL BASED UPON PROSECUTORIAL MISCONDUCT

I. ARGUMENTS

The defense contends that the State's summation was permeated with improper argument, including burden-shifting, speculation, reliance on facts not in evidence, expressions of personal opinion, denigration of defense counsel, and unsupported commentary on defendant's state of mind. The defense asserts that these improprieties, considered both individually and cumulatively, deprived defendant of a fair trial.

The State, in contrast, maintains that its summation remained firmly grounded in the evidentiary record and constituted a permissible, and at times necessary, response to the defense's theories. The State characterizes its challenged remarks as fair comment, reasonable inference, or rhetorical excess within the broad latitude afforded to prosecutors. It further emphasizes the absence of contemporaneous objections to most remarks, the court's curative instructions where objections were sustained, and the jury charge clarifying that summations are not evidence.

The court will now summarize the specific arguments.

A) Burden-Shifting and Speculation

1) DVR Cameras

The defense acknowledges that the State was permitted to argue that defendant intentionally disabled the DVR system and that a Wi-Fi disruption would not impact a hardwired system. However, it contends the State crossed the line by repeatedly emphasizing that defendant offered no explanation for shutting off the cameras. According to the defense, this commentary impermissibly shifted the burden of proof and invited the jury to draw a negative inference from defendant's decision not to testify.

The State rejects that characterization, asserting that it relied on record evidence, including Exhibit S-148 and testimony establishing the system's continuous operation prior to the homicides. It argues that the inference that the shutdown was deliberate, and not caused by Wi-Fi, was straightforward and within the ken of the average juror. The State further maintains it permissibly rebutted the defense's own suggestion that a Wi-Fi issue caused the outage, and that its argument did not implicate defendant's right to remain silent.

2) Third-Party Guilt: Corey Caneiro

The defense argues that it presented a legitimate third-party guilt theory based on Corey's alleged financial motive. It contends the State improperly undermined that theory by repeatedly asserting that Corey was unaware of his status as a contingent beneficiary of the Trust, despite the absence of testimony on that point.

The defense maintains that such assertions suggested the State possessed knowledge outside the record and improperly bolstered its position.

The State responds that it accurately described the evidentiary record, noting that no witness testified Corey knew of his beneficiary status and that testimony established the Trust primarily benefited Keith's children. The State further emphasizes that it had an obligation to rebut the defense's third-party guilt theory and did so by pointing to evidence linking defendant, not Corey, to the crimes, including DNA, ballistics, surveillance footage, and defendant's timeline.

3) Jennifer Caneiro's iPhone

The defense contends that the State's rebuttal to its critique of the investigation, particularly the failure to locate Jennifer's iPhone, was improper. It argues the State introduced speculative explanations and facts not in evidence, thereby misleading the jury and minimizing investigative shortcomings.

The State counters that its comments were offered in direct response to the defense's robbery theory and were framed as permissible inferences, as reflected by its use of qualifying language. It maintains that its statement that investigators cannot search for evidence they do not possess accurately conveyed the practical realities of the investigation and did not constitute improper argument.

B) Personal Opinions and Information Beyond the Record

The defense identifies multiple instances in which it claims the State interjected personal opinion or facts not in evidence. These include: the prosecutor's remarks about not owning a firearm and describing the Sig Sauer defendant used as "a beast;" commentary regarding how solar panels function and what a reasonable person would understand; estimations of distance between key locations without supporting testimony; a narrative suggesting Sophia attempted to aid her brother; and references to God coupled with assertions that the State does not instruct witnesses what to say.

The State responds that its comments were either grounded in the evidence or constituted fair rhetorical devices. It acknowledges that one remark, suggesting the existence of admissible evidence not elicited, was improper but notes the court sustained the objection and issued a curative instruction, which it argues mitigated any potential prejudice. As to the remaining comments, the State maintains they reflected reasonable inferences drawn from testimony, exhibits, and common experience, and did not introduce extraneous facts or improper opinion.

C) Denigration of Defense Counsel

The defense asserts that the State improperly disparaged defense counsel by characterizing its theories as unworthy of consideration, suggesting the defense engaged in improper tactics, and implying that counsel's arguments were merely performative rather than substantive. The defense further contends the State

misrepresented its positions, including its arguments concerning identification and financial motive, thereby misleading the jury.

The State disputes that it denigrated defense counsel, asserting instead that it engaged in vigorous advocacy in response to the defense's theories. It characterizes its remarks as rhetorical and contextual, emphasizing that it clarified its statement that counsel was "doing her job" as a compliment. The State also argues it was entitled to comment on the timing and development of defense theories and to challenge their evidentiary basis.

D) Improper Opinions on Defendant's State of Mind

The defense contends that the State repeatedly speculated about defendant's internal mental state, offered assertions that defendant acted "sloppily," experienced certain psychological effects, and harbored resentment toward the victim. The defense argues these statements lacked evidentiary support and amounted to improper lay opinion or unqualified expert testimony.

The State responds that it was required to address defendant's state of mind because intent is an essential element of the charged offenses and must be inferred from conduct. It maintains that its characterizations were grounded in the evidence, including communications, witness testimony, and defendant's actions before and after the crimes. The State denies offering expert opinions and notes that it expressly acknowledged the limits of such speculation.

E) Facts Not in Evidence

The defense argues that the State relied on facts not in evidence in several respects, including asserting that two pairs of jeans were in fact one; claiming limitations on DNA testing not supported by testimony; advancing a theory involving a scarf without evidentiary basis; suggesting defendant engaged in pre-crime target practice; and offering speculative explanations for the timing and origin of the garage fire that allegedly conflicted with expert testimony.

The State responds that its arguments were tethered to the evidentiary record and invited the jury to draw reasonable inferences from physical exhibits, testimony, and video evidence. It maintains that its characterization of the jeans was based on the physical evidence presented to the jury, that testimony supported its statements regarding DNA testing practices, and that the remaining inferences were supported by circumstantial evidence. The State also emphasizes that defense counsel failed to object to most of these remarks, underscoring their contemporaneous acceptability and limiting any claim of prejudice.

F) Parties' Concluding Positions

The defense ultimately contends that the State's summation, taken as a whole, exceeded the bounds of permissible advocacy and created a trial atmosphere in which the jury was invited to rely on speculation, improper inferences, and considerations outside the record. It argues that the cumulative effect of these errors

undermined the integrity of the proceedings and deprived defendant of a fair trial, thereby necessitating a new trial.

The State, in contrast, maintains that its summation was a fair and forceful response to the defense's theories, firmly rooted in the evidence, and consistent with governing law. It argues that any isolated misstatement was promptly addressed and cured, that the jury was properly instructed, and that the absence of timely objections to most remarks confirms the lack of prejudice. Accordingly, the State maintains defendant received a fair trial and that the motion for a new trial should be denied.

II. GOVERNING LAW

A) Summations

Rule 1:7-1 provides that "[a]fter the close of evidence and except as may be otherwise ordered by the court, the parties may make closing statements in the reverse order of opening statements." A prosecutor is afforded substantial latitude to advance forceful and graphic arguments during summation in criminal cases. State v. Bradshaw, 195 N.J. 493, 510 (2008); Frost, 158 N.J. at 82. The primary duty of a prosecutor, however, is not to obtain convictions but to ensure that justice is done. State v. Farrell, 61 N.J. 99, 104 (1972). Remarks made in direct response to defense counsel's summation are generally viewed as harmless. State v. C.H., 264 N.J. Super. 112, 135 (App. Div. 1993).

A prosecutor may make fair comment on the evidence and argue the significance of the testimony presented. State v. Sinclair, 49 N.J. 525, 548–49 (1967). Provided that the prosecutor's remarks are grounded in the evidence and the reasonable inferences drawn therefrom, such comments will not constitute grounds for reversal. Bradshaw, 195 N.J. at 510.

Not every prosecutorial impropriety justifies a new trial. State v. Garcia, 245 N.J. 412, 436 (2021). Reversal is warranted only where the prosecutor's summation so substantially impaired the defendant's fundamental right to a fair trial that a new trial is required. Ibid.

B) Objections

An important factor that must be considered when analyzing whether the State exceeded its purview during summation is whether timely and proper objections were raised, in addition to whether the comment was withdrawn and, if appropriate, instructions were given to the jury. State v. Smith, 212 N.J. 365, 403 (2012). The Supreme Court of New Jersey has held that defense counsel's failure to object to a prosecutor's remark suggests that defense counsel "did not believe the remarks were prejudicial at the time they were made." Frost, 158 N.J. at 84. The court in such an instance is also deprived of the opportunity to take curative action. Ibid. (citing State v. Bauman, 298 N.J. Super. 176, 207 (App. Div. 1997)). Courts simply cannot

condone silence on the part of counsel paired with a subsequent motion for new trial. Bauman, 298 N.J. Super. at 207.

Courts generally do not accept the notion that defense counsel's lack of objection may be excused because it would have been awkward in front of the jury. Ross, 229 N.J. at 407. This is especially true given that in most cases counsel always can object at sidebar, out of the jury's earshot. Ibid. Moreover, previous issues being addressed at sidebar bolsters the idea that sidebar is an adequate option to hear objections. Id. at 407-08. It is also highly disfavored to set forth contestations through a motion or an appeal post-trial, when the same was not addressed through an objection Id. at 408 (holding that "to rerun a trial when the error could easily have been cured on request, would reward the litigant who suffers an error for tactical advantage either in the trial or on appeal" (internal citations omitted)).

C) Prosecutorial Misconduct

Not every instance of prosecutorial impropriety warrants a new trial. Garcia, 245 N.J. at 436. Rather, the court must evaluate the alleged misconduct in the context of the entire record and determine whether it prejudiced the defendant's right to a fair trial. Ibid. Reversal is required only where the prosecutor's summation so substantially impairs a defendant's fundamental right to have the jury fairly evaluate the merits of the defense that a new trial becomes necessary. Ibid.

When a prosecutor misstates the law during summation, the trial court must correct the error and instruct the jury to disregard the mistake. Pressler & Verniero, Current N.J. Court Rules, cmt. 2.3 on R. 1:7-1 (2025) (citing State v. Velasquez, 391 N.J. Super. 291, 314 (App. Div. 2007); State v. Overton, 357 N.J. Super. 387, 395–96 (App. Div. 2003), certif. denied, 177 N.J. 219 (2003)).

A prosecutor may argue forcefully based on the facts in evidence and the reasonable inferences drawn from those facts. State v. Smith, 167 N.J. 158, 178 (2001) (quoting State v. Johnson, 31 N.J. 489, 510 (1960)). Such advocacy, including emphatic or rhetorical commentary, does not constitute reversible error. However, a prosecutor engages in misconduct by suggesting possession of information outside the record. Even then, reversal is not warranted unless the conduct is so egregious that it deprives defendant of a fair trial. Feaster, 156 N.J. at 59.

D) Curative Instructions

The court presumes that jurors follow the instructions given to them. Loftin, 146 N.J. at 390 (citing State v. Manley, 54 N.J. 259, 271 (1969)). In determining whether to issue a curative instruction or declare a mistrial, the court applies the principles set forth in State v. Winter, 96 N.J. 640, 646–47 (1984). There, the court recognized that not every instance of inadmissible evidence requires reversal, as

such occurrences arise in most trials, often inadvertently. Id. at 646 (quoting Bruton v. United States, 391 U.S. 123, 135 (1968)).

A mistrial is not warranted unless the prejudice is clearly incapable of being cured by an appropriate instruction. State v. Witte, 13 N.J. 598, 611 (1953). In assessing the effectiveness of a curative instruction, a reviewing court affords substantial deference to the trial court's determination. Winter, 96 N.J. at 647.

III. LEGAL ANALYSIS

The court has reviewed the full record of the State's summation. The defense's brief consistently quotes the State's summation out of context, stringing together excerpts that, when viewed in their entirety, plainly reflect permissible advocacy grounded in the evidence. Therefore, in order to aid in the court's analysis, the cited portions of the record are conveyed with context in the appendix to this opinion, and the court discusses the relevant portions of the record herein, while applying the governing legal standards.

The court further notes that, of the numerous alleged improprieties the defense raises, counsel objected to only four comments at trial. This failure to object is significant on two grounds: it signals that defense counsel did not consider those remarks prejudicial at the time they were made, and it deprived the court of the opportunity to fashion any curative remedy. Frost, 158 N.J. at 84; Ross, 229 N.J. at 408.

The State delivered its summation over two days, beginning on February 11, 2026, at approximately 1:49:25 p.m. and concluding on February 12, 2026, at approximately 12:00 p.m. After the State concluded its summation on February 12, 2026, the court recessed for lunch.

At oral argument, Mr. Murray asserted that the defense strategically refrained from objecting to portions of the summation it now characterizes as clearly improper, in order to avoid prejudicing the defendant. The court noted that the defense had multiple opportunities to place objections on the record outside the presence of the jury or to move for a mistrial. Specifically, the defense could have objected at the close of the first day of the State's summation, at the start of the second day, or after the State concluded its summation. Mr. Murray acknowledged these opportunities but maintained that the absence of objections reflected a strategic decision.

The court is unpersuaded by the defense's position. Guided by Ross, the court finds that the potential awkwardness of objecting in the presence of the jury does not relieve counsel of the obligation to object in order to preserve error. 229 N.J. at 407.

The court now addresses each category of alleged misconduct in turn.

A) Burden Shifting

1) DVR Cameras

The defense contends that three comments regarding the DVR camera constitute improper burden-shifting. Specifically, the defense quotes: (1) "There is no explanation for shutting that off," (2) "The first one I want to talk about is why would Paul Caneiro shut his DVR off at 1:28 a.m. in the morning," and (3) "He's gone to his garage in the middle of the night when he's told police he's sleeping, and he's walked up, faces the camera, and all of a sudden it shuts off. If there's another explanation for what happened there, I have no idea what it is."

Read in context, these statements constituted fair comment on the evidence presented at trial. Sinclair, 49 N.J. at 548–49. The defense's reliance on State v. Engel, 249 N.J. Super. 336 (App. Div. 1991) is misplaced. Engel addressed a prosecutor who directly invited the jury to "ask" the defendant why he killed his former wife, a thinly veiled comment on the defendant's election not to testify. 249 N.J. Super. at 381. The Engel court condemned that approach and collected cases in which similar comments had been criticized, including remarks that the defense offered "no explanation," that the State's evidence was "uncontradicted," and that defendant failed to "produce character witnesses." Id. at 381–82 (citing State v. Gosser, 50 N.J. 438, 452 (1968); Sinclair, 49 N.J. at 549; State v. Pickles, 46 N.J. 542, 579 (1966)). Here, the State did not insinuate that the jury should "ask" defendant why he killed his family, and there was no outright reference to defendant's election not to testify. Engel does not control in this situation.

More on point is Gosser, which the court in Engel itself relied upon. In Gosser, the prosecutor argued during summation that there was "no explanation" for certain physical evidence, language nearly identical to that used here. 50 N.J. at 452. The reviewing court held that even if that language created constitutional error, it was harmless beyond a reasonable doubt under Chapman v. California, 386 U.S. 18 (1967). Gosser, 50 N.J. at 453. The court further concluded that the phrase "no explanation" amounted to nothing more than "fair reference to legitimate inferences from non-production of evidence," and that "this type of question should not turn on mere semantics." Ibid. The court specifically rejected the argument that the phrase "no explanation" was prejudicial because it holds the same connotation as "no contrary inference." Ibid.

This court's analysis aligns with Gosser. The State's comments were grounded in evidence, specifically, that a hardwired DVR would not be affected by a Wi-Fi error, making defendant's shutdown of the camera at 1:28 a.m. inexplicable by reference to any innocent technical cause. The State's language falls comfortably within the latitude of Bradshaw, which affords prosecutors to argue reasonable inferences from the evidence. 195 N.J. at 510

2) Third-Party Guilt

The court finds no improper burden-shifting in the State's treatment of the defense's third-party guilt theory. Responding to that theory during summation is

expressly permitted. C.H., 264 N.J. Super. at 135. The court addresses each of the seven statements the defense identifies.

First statement. The defense quotes the State as having argued that Corey had no knowledge that he was a contingent beneficiary to the Trust. The defense presents this excerpt in isolation. The full record shows the State made these remarks within a larger discussion of why law enforcement followed the evidence rather than focusing on motive. CourtSmart at 1:56:27 p.m. to 1:58:30 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[12]

The defense argues the jury heard no evidence about whether Corey knew he was a beneficiary, and therefore the State improperly shifted the burden. The court is not persuaded. The defense itself conceded in its brief that "none of these witnesses testified, one way or another, whether Corey had knowledge that he was a beneficiary." Def.'s Br. Mot. for New Trial 13–14.

Additionally, Lazaro Cardenas, Esq., (hereinafter "Mr. Cardenas") testified that the Trust was designed to benefit Keith's children, not Corey or defendant. Against this backdrop, the State's remark properly highlighted the absence of evidence establishing that Corey knew he stood to benefit from the Trust. Arguing from the absence of evidence is a well-recognized function of summation. Sinclair,

[12] See App. to Court's Op. Citation Eight.

49 N.J. at 548–49. The comment was grounded in the record and constituted a reasonable inference therefrom. Bradshaw, 195 N.J. at 510.

Second statement. The defense quotes the State as having questioned what in the evidence should have prompted investigators to obtain Corey's financial records or further examine Elisa Caneiro's phone. The full passage establishes that the State was responding to defense arguments that investigators failed to conduct a thorough investigation. Specifically, the State was commenting that, with the benefit of seven years' hindsight, it is easy to identify investigative steps not taken, but that nothing in the contemporaneous evidence pointed to Corey as a suspect. CourtSmart at 2:22:23 p.m. to 2:22:58 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[13] The prosecutor then clarified to the jury that "there was nothing there that made Corey look like a suspect." CourtSmart, at 2:23:13 p.m. to 2:23:37 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[14] The clarifying statement removed any ambiguity. The remark was grounded in the evidence and constituted a permissible inference in rebuttal to the defense's theory that the investigation was inadequate. Bradshaw, 195 N.J. at 510.

Third statement. The defense quotes the State's argument that investigators did not obtain Corey's DNA because nothing in the evidence suggested it was

[13] See App. to Court's Op. Citation Nine.
[14] See App. to Court's Op. Citation Ten.

warranted. The defense misattributes the timestamp in its brief. The court independently located the passage in the record. In full context, the State explained that absent affirmative evidence Corey knew he stood to benefit from the Trust, and given that family members necessarily share overlapping alleles, obtaining Corey's DNA would have provided no meaningful investigative lead. CourtSmart at 2:24:40 p.m. to 2:26:13 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[15] This argument was supported by the testimony of DNA expert Dr. Reich and was grounded in the record. Bradshaw, 195 N.J. at 510.

Fourth statement. The defense quotes the State's characterization of the third-party guilt theory as "farfetched." In context, the State made this remark after summarizing the multiple contingencies that would have had to occur before Corey could receive any of the Trust proceeds and after recalling Mr. Cardenas's testimony that the Trust was designed to benefit the children, not the brothers. CourtSmart at 2:26:06 p.m. to 2:27:07 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[16] Pointing out weaknesses in the defense's theory is a recognized function of the State's summation. Smith, 212 N.J. at 404. The court does not find the State created a straw man argument or shifted any burden. The defense did not object, which further

[15] See App. to Court's Op. Citation Eleven.
[16] See App. to Court's Op. Citation Twelve.

suggests the remark was not perceived as prejudicial at the time. Frost, 158 N.J. at 84.

Fifth statement. The defense contends that the State speculated improperly when it argued that defendant was "fed up" with Keith's demands and that no comparable dispute existed with Corey. The full passage reveals the State was drawing on the evidence of the phone call between Keith and defendant the evening of the homicides, during which Keith confronted defendant about missing money. CourtSmart at 3:36:14 p.m. to 3:38:31 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[17] The record contains no evidence that Keith had similar confrontations with Corey. Arguing about the absence of contrary evidence is permissible. Sinclair, 49 N.J. at 548–49.

Sixth statement. The defense contends that the State acted improperly by telling the jury to "keep that in mind when we're trying to tarnish something that has no evidence." In context, the State made this remark while responding to the defense's argument that Corey's reluctance to drive from Pennsylvania to New Jersey at night was evidence linking him to the homicides. The State responded that driving across state lines late at night and driving a short distance to assist a brother in a family emergency are not comparable. CourtSmart at 3:58:09 p.m. to 3:59:44

[17] See App. to Court's Op. Citation Thirteen.

p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[18] This was a direct, evidence-based response to the defense's theory, and it constituted permissible rebuttal argument. Smith, 167 N.J. at 178; C.H., 264 N.J. Super. at 135.

Seventh statement. The defense identifies as objectionable the State's comment that it "shouldn't have to prove" that Corey had nothing to do with the homicides. The defense objected on two grounds: that the State was testifying to facts not in evidence, and that the State was renouncing any burden to disprove the defense's theory. The court overruled the objection.

The full record reveals that the State made this remark while discussing Dr. Gould's neighbor-camera footage, in the context of questions the prosecutor had posed about the physical appearance of various individuals to set up later forensic arguments. CourtSmart at 8:46:26 a.m. to 8:47:05 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).[19] Read in that context, the phrase, "I shouldn't have to prove that to you," was not a renunciation of the State's burden but a rhetorical assertion that the evidence already in the record sufficiently eliminated Corey as a suspect. The State never contended it bore no burden of proof. To the contrary, it had just finished recounting the physical evidence connecting defendant to the crimes. The comment,

[18] See App. to Court's Op. Citation Fourteen.
[19] See App. to Court's Op. Citation Fifteen.

while imprecise, did not mislead the jury as to the applicable burden, which the court addressed comprehensively in its jury charge. The court finds no merit in this claim.

3) Jennifer Caneiro's iPhone

The court finds no prejudicial error in the State's summation regarding Jennifer's iPhone. The defense stitches together isolated excerpts to argue the State speculated improperly about Jennifer's last moments and the failure to obtain cell phone records.

The full passage reveals that the State was responding to the defense's suggestion that the failure to locate Jennifer's iPhone casts doubt on the adequacy of the investigation. The State explained that Jennifer likely left her phone in the master bedroom; that, unlike the basement and the area of origin, the master bedroom was not excavated after the fire; and that the investigation was not a robbery investigation, as evidenced by the fact that Keith's phone and wallet remained on his person. CourtSmart at 3:42:35 p.m. to 3:44:44 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[20]

The defense argues there was no evidence Keith was in bed when the crimes occurred. The court is not persuaded. The murders occurred in the middle of the night, and it is a reasonable inference, consistent with common sense and the

[20] See App. to Court's Op. Citation Sixteen.

evidence regarding the timeline of events, that Keith was asleep and rose to investigate the power failure. Smith, 212 N.J. at 404; Sinclair, 49 N.J. at 548–49. The State's suggestion that investigators probably would have found Jennifer's iPhone in the master bedroom had they searched there is similarly a permissible inference grounded in the evidence; that is, the master bedroom was not excavated, and the State explained, rather than invented, a reason why the phone was not recovered. Bradshaw, 195 N.J. at 510. The defense did not object to any portion of this argument at trial, which further indicates that counsel did not perceive it as prejudicial at the time. Frost, 158 N.J. at 84.

B) Personal Opinions and Information Beyond the Trial Record

1) Dinner with Mr. Paolucci

The court agrees that the State's comment that "there's only certain things that we can elicit from witnesses that's actually admissible" was improper. CourtSmart at 3:23:05 p.m. to 3:23:22 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[21] By suggesting that additional, inadmissible information existed beyond what the jury heard, the State implied that the record was incomplete in a way that favored the prosecution. That type of comment risks leaving a jury with the impression that the witness could have said more damaging things had the rules of evidence permitted it.

[21] See App. to Court's Op. Citation Seventeen.

The court sustained the defense's objection, directed the jury to disregard the remark, and instructed them accordingly. The court presumes the jury followed that instruction. Loftin, 146 N.J. at 390. Curative instructions addressing isolated and fleeting comments of this nature are an adequate remedy. Witte, 13 N.J. at 611. The defense argues the instruction was insufficient and that the jury was left with the impression that harmful evidence existed but was withheld. The court finds this argument unpersuasive in light of the prompt curative instruction, the isolated nature of the remark, and the extensive evidence supporting the verdict on independent grounds. This comment does not warrant a new trial.

2) Prosecutor's Experience with Firearms

The court finds that the State's passing reference to its own limited familiarity with firearms did not constitute improper personal testimony or bolstering. CourtSmart at 10:13:40 a.m. to 10:14:22 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).[22]

Read in context, the State was arguing that switching out a gun barrel is not a complicated task, a point already established through the testimony of Sgt. Clayton, and that defendant, as a gun owner, would have been capable of doing so within the relevant timeframe. The State's brief acknowledgment of its own inexperience was

[22] See App. to Court's Op. Citation Eighteen.

rhetorical rather than testimonial; it was not offered to establish the prosecutor's superior knowledge but to underscore the accessible, non-technical nature of the task. The remark did not invite the jury to convict defendant simply because he owned firearms, and it did not undermine the court's limiting instruction on the weapon cache evidence.

The court's limiting instruction expressly confined the jury's use of defendant's lawful firearm ownership to issues of "ability, means, and/or opportunity to commit the charged offenses." Final Jury Charge 14, (Feb. 12, 2026), Caneiro, (No. 18-4915). The State's argument was consistent with that limiting purpose. The defense did not object to this remark at trial, which further counsels against finding prejudice. Frost, 158 N.J. at 84. The court also rejects the defense's argument that calling the Sig Sauer a "beast" was improper. The State is afforded substantial latitude to advance graphic and forceful arguments in criminal cases. Bradshaw, 195 N.J. at 510. This passing characterization falls well within that latitude.

3) Solar Panels

The defense argues the State speculated improperly when it argued that only defendant and Keith would have known that a particular solar panel array did not provide backup power and that this knowledge explained why defendant left the array undisturbed. CourtSmart at 10:21:23 a.m. to 10:22:39 a.m. (Feb. 12, 2026),

Caneiro, (No. 18-4915).[23] Expert witness Michael Abraham testified that certain solar panel arrays provide backup power and others do not, specifically including the array the State referenced. The record also contains testimony establishing defendant assisted Keith with technical matters and installation at Keith's home. Mr. Paolucci, Keith's close friend testified to this fact, as shown below.

> Ms. Mastellone: What I'm asking is this: on direct examination the prosecutor asked you who else to your knowledge helped Keith with — because he wasn't a very handy person. And you said he would call either you or Paul.
>
> Mr. Paolucci: Correct.
>
> Ms. Mastellone: So you did have knowledge that Keith would ask Paul to help him out with things that, that Keith wasn't able to do himself because he wasn't handy, correct?
>
> Mr. Paolucci: Yes.
>
> Ms. Mastellone: And this is based on firsthand knowledge?
>
> Mr. Paolucci: Correct
>
> Ms. Mastellone: So, what are some of the things? Was it the pool? Was that one of them?
>
> Mr. Paolucci: That's one of them, yeah, the pool. We changed the PVC pipes in the ground, we dug a hole and replaced the PVC pipes.
>
> Ms. Mastellone: And like the solar panels or something like that?
>
> Mr. Paolucci: There were some issues with the solar panels and yeah I remember that. And then there was the

[23] See App. to Court's Op. Citation Nineteen.

> drainage pipe, and then there was something in Sophia's room. It was about four times. Sophia's room had some type of valves or something in there that we were working on.
>
> [CourtSmart at 3:54:22 p.m. to 5:55:08 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).[24]]

Additionally, Michael Abraham (hereinafter "Mr. Abraham"), who was qualified as an expert in the field of engineering, testified that the specific solar array at issue did not provide any backup power to the house.

> Mr. Decker: Now with respect to the solar panel array, was that something that you made observations of on the date, November 24[,] [2018]?
>
> Mr. Abraham: Yes, similar to the generator and the electrical service. I examined the solar array and its main disconnect to determine if — the state of the status of it.
>
> Mr. Decker: And we've seen a lot of photos of that, but the disconnects were how, just to be clear, as you found it?
>
> Mr. Abraham: I found it in the off-position.
>
> Mr. Decker: Okay. Now did you inquire as to whether or not any first responders or fire officials actually shut it off on November 20, 2018?
>
> Mr. Abraham: Correct.
>
> Mr. Decker: And did they?
>
> Mr. Abraham: Yes. I believe that they did.
>
> Mr. Decker: Okay, so it had been shut off by first responders, in an abundance of caution I imagine, correct?
>
> Mr. Abraham: Correct, as a part of the fire suppression response.

[24] See App. to Court's Op. Citation Twenty.

Mr. Decker: Now with respect to that panel, I mean, the solar panel array, the disconnect I guess — strike that. At the time of the fire, it appears it would have been on, correct?

Mr. Abraham: Yes.

Mr. Decker: Okay, and what, if any, effect would that have on backup power to 15 Willow Brook?

Mr. Abraham: So, with the disconnect being on, if they solar array was functional it would be able to provide an alternate source of power to circuits in the structure.

Mr. Decker: Okay. Was this the type of solar panel array that actually was designed to provide backup power?

Mr. Abraham: Only if the line connection was still intact, meaning if utility power was present, the solar system via its connection to the inverter can provide power to the house.

Mr. Decker: So the solar panel would have, the way it was set up, would have needed power to the structure in order to operate?

Mr. Abraham: That's correct.

Mr. Decker: Okay. So if power was cut it would not be a source of backup power.

Mr. Abraham: That's correct. There's an interconnection between the solar system and the house so that way when it loses primary power from the utility, the solar system isn't able to provide an alternate source of power to anything in the house.

[CourtSmart at 11:40:05 a.m. to 11:42:13 a.m. (Feb. 3, 2026), Caneiro, (No. 18-4915).[25]]

[25] See App. to Court's Op. Citation Twenty-One.

From that evidence, the State was able to draw the reasonable inference that defendant would have been familiar with the solar panel system at 15 Willow Brook Road. Bradshaw, 195 N.J. at 510.

4) Distance to Keith's House

The court finds no error in the State's argument regarding the distance between Keith's home and the location where defendant parked his vehicle. The jury was shown photographs depicting both locations, and the State was drawing an argumentative observation from evidence in the record. Sinclair, 49 N.J. at 548–49.

The defense correctly notes that jurors are escorted through restricted courthouse areas and are therefore unfamiliar with the building's layout. But that observation does not render the State's comparison prejudicial. If anything, the jury's unfamiliarity with the courthouse restrooms rendered the analogy meaningless rather than misleading, eliminating the possibility of harm. Given the broad latitude the State receives during summation, Bradshaw, 195 N.J. at 510, and the absence of demonstrated prejudice, the court denies relief on this ground.

5) Inflammatory Opinion Regarding Sophia's Blood in the Kitchen

The court finds that the State's theory explaining how Sophia's blood came to be in the kitchen was grounded in physical evidence and constituted permissible argument.

The defense relies on State v. Rodriguez, 365 N.J. Super. 38, 48 (App. Div. 2003), arguing the comment had the capacity to evoke the jury's sympathy and outrage. That reliance is misplaced. In Rodriguez, the prosecutor focused on the victim's personal qualities and characteristics, which were irrelevant to any factual issue at trial. Id. at 48. Here, the State did not dwell on Sophia's personal attributes but instead advanced a theory, supported by blood spatter evidence and DNA testing, about how Sophia's blood and Jesse's blood came to appear in the same location. That is precisely the type of inference a prosecutor may draw from forensic evidence in summation.

The defense also relies on State v. Blakney, in which the court found a prosecutor's expression of personal outrage and suggestion that the defendant should be condemned based on her status as a mother to be improper. 189 N.J. 88, 95-96 (2006). That decision is distinguishable. The State here did not express personal revulsion or suggest conviction based on defendant's status or character. Rather, it advanced a factual theory grounded in physical evidence.

The defense did not object to this portion of the summation at trial, which supports the inference that it was not perceived as prejudicial at the time. Frost, 158 N.J. at 84. The State also explicitly advised the jury that it should reach its verdict through evidence, not sympathy, and exercised restraint by including only two heavily redacted autopsy photographs in its summation presentation. This was

forceful advocacy consistent with Bradshaw, not inflammatory misconduct. 195 N.J. at 510.

6) References to Religion

The court finds no basis for the defense's contention that the State improperly invoked religion in its summation. The State's use of the word "God" in passing expressions, such as, "God, what I just did to my niece;" "God help me;" "By the grace of God;" and, "God only knows," was rhetorical and colloquial, not doctrinal.

New Jersey courts have not addressed this issue directly. Thus, the court looks to persuasive federal authority for guidance. In Sechrest v. Baker, 816 F. Supp. 2d 1017, 1055 (D. Nev. 2011), the court found phrases such as "thank the Good Lord," "by God," and "out of the mouths of babes" to be nothing more than figures of speech, holding that the prosecutor "did not convey any religious doctrine to the jury, and he did not summon religious authority as support for his position." Similarly, in United States v. Marron, 658 F. App'x 692, 694 (5th Cir. 2016), a reference to the devil was found "rhetorical rather than an improper religious reference" because the prosecutor did not invoke religious authority to support his argument.

The State's comments here are of the same character. At no point did the prosecutor invoke religious doctrine, appeal to divine judgment, or suggest that any

higher authority supported the State's position. The references were incidental and rhetorical. The court finds no error.

7) Telling Witnesses What to Say

The court finds the State neither improperly vouched for witness credibility nor suggest that it does not coach witnesses. The court's review of the relevant passage reveals the State was addressing the defense's theory that law enforcement failed to conduct a thorough investigation and zeroed in on defendant to the exclusion of other leads.

The State's argument was that the detectives did not overlook the testimony of Jonathan Harrington and Heather Capp regarding sounds they heard outside defendant's home; rather, investigators reviewed that information and reached a different conclusion about the timeline. The State was not commenting on witness credibility in an absolute sense, rather it was explaining why investigators did not treat those witnesses' accounts as inconsistent with the evidence pointing to defendant. This was a permissible rebuttal to the defense's theory of investigative tunnel vision. C.H., 264 N.J. Super. at 135. The court finds no improper bolstering or credibility vouching.

C) The State's Alleged Denigration of Defense Counsel

The court finds that the State did not denigrate defense counsel or cast unjust aspersions on the defense. The State's remarks were directed at the evidence and at the defense's theories, not at defense counsel personally.

1) Denigration

Statement one: "She's doing her job." When the State commented, "and I get it she's doing her job" in reference to defense counsel, the State immediately clarified, after an objection was lodged, that the comment was "a compliment." CourtSmart at 2:14:20 p.m. to 2:14:22 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[26] Defense counsel provided no grounds for the objection when interposed. The court overruled it. Read in context, the State was acknowledging the defense's adversarial function before proceeding to respond to defense arguments, which is a practice that falls within permissible summation advocacy. C.H., 264 N.J. Super. at 135.

Statement two: "I'm a little sick of hearing about Corey Caneiro" and "Should we be stupid or should we follow the evidence?" These statements arose in distinct portions of the summation. The "sick of hearing" remark appeared within the larger passage already analyzed in the third-party guilt section above. It expressed prosecutorial frustration with repeated invocation of Corey as an

[26] See App. to Court's Op. Citation Twenty-Two

alternative suspect, not a comment on defense counsel's conduct or competence. The "should we be stupid" remark arose in the context of discussing ballistics evidence, where the State explained the methodical, step-by-step nature of the investigation and reasoned that had the ballistics not matched or the DNA not led to defendant, investigators would have looked elsewhere.

At no point did the State suggest defense counsel acted stupidly. The State is permitted to forceful and emotionally argue in summation. Bradshaw, 195 N.J. at 510; Frost, 158 N.J. at 82–83. These comments were grounded in the evidence and were responsive to the defense's theory of investigative tunnel vision. Remarks made in direct response to defense arguments are generally viewed as harmless. C.H., 264 N.J. Super. at 135.

Even if any isolated remark could be characterized as approaching impropriety, the court's jury charge expressly instructed the jury that summation arguments are not evidence and must not be treated as such. Final Jury Charge 5, (Feb. 12, 2026), Caneiro, (No. 18-4915). Any residual concern is cured by that instruction. Witte, 13 N.J. at 611.

2) Mischaracterization

The court finds that the State did not mischaracterize the defense's theories or mislead the jury regarding the legal standard governing third-party guilt evidence.

The defense classifies the State's argument that "anybody can go, 'Corey did it'" as a mischaracterization. Read in context, the State was arguing that the defense's third-party guilt theory rested on nothing more than the ability to point a finger, and that the evidence, by contrast, compelled a specific conclusion. This was a comment on the strength of the evidence in the record, not a misstatement of the legal standard for admissibility of third-party guilt evidence. The court agrees that introducing third-party guilt evidence requires a rational link between the third party and the victim or crime, State v. Fortin, 178 N.J. 540, 591 (2004), but the State was not charging the jury on that legal standard; it was responding to the defense's arguments on the merits, which it is permitted to do. State v. Munoz, 340 N.J. Super. 204, 216 (App. Div. 2001).

The defense did not object to this argument at trial, which must be considered. Smith, 212 N.J. at 403-04. Moreover, the court charged the jury extensively on the correct third-party guilt standard immediately following summations. Final Jury Charge 15-16, (Feb. 12, 2026), Caneiro, (No. 18-4915). The court presumes the jury followed those instructions. Loftin, 146 N.J. at 390.

The court also finds that the State did not mischaracterize the defense's financial arguments. The defense argued in its summation that defendant was financially stable, supported by disability income and anticipated revenue from EcoStar and Square One. The State directly responded by challenging the reliability

of those anticipated revenue streams and by distinguishing defendant's financial position from Keith's, noting that Keith, unlike defendant, had no disability income to fall back on. CourtSmart at 3:21:23 p.m. to 3:24:21 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[27] That is a permissible response to the defense's argument. C.H., 264 N.J. Super. at 135; Smith, 212 N.J. at 404. The State also referenced Exhibits S-40(a) and (b) in support of its position, anchoring the argument in the record. The court finds no mischaracterization.

3) Defendant's Fifth Amendment Right

The court finds no Fifth Amendment violation in the State's summation, and further finds the defense waived any claim of error by declining the court's offer of a contemporaneous curative instruction.

During the State's summation on February 11, 2026, the court sua sponte identified a comment in which the State referenced that investigators had to examine surveillance camera footage because defendant "didn't tell us" he left in the middle of the night. At sidebar, the court advised defense counsel that it was prepared to instruct the jury immediately on defendant's right to remain silent. CourtSmart at 4:28:14 p.m. to 4:29:05 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915)[28]; CourtSmart

[27] See App. to Court's Op. Citation Twenty-Three.
[28] See App. to Court's Op. Citation Twenty-Four.

at 4:29:41 p.m. to 4:31:12 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[29] Defense counsel declined a contemporaneous instruction, preferring to address the issue when summations concluded, through the final jury charge. The court accommodated that preference. The final jury charge included a complete instruction on defendant's election not to testify. Final Jury Charge 16, (Feb. 12, 2026), Caneiro, (No. 18-4915).

The State's comment also concerned defendant's voluntary statement to law enforcement, in which he told officers he had been asleep all night, rather than his election not to testify at trial. These are distinct constitutional protections. Because defendant chose to speak to police and made an affirmative statement that was later contradicted by the camera footage, the State was entitled to highlight that inconsistency without implicating defendant's Fifth Amendment trial right.

In any event, the defense cannot now claim prejudice from an issue it declined to have cured in the moment. When a party identifies an alleged error, declines the curative remedy offered by the court, and then presses the same issue as grounds for a new trial, that party seeks precisely the kind of unfair tactical advantage the Supreme Court of New Jersey has cautioned against. Ross, 229 N.J. at 408; Bauman, 298 N.J. Super. at 207. The court will not reward that approach.

[29] See App. to Court's Op. Citation Twenty-Five.

4) Hiding Evidence

The court finds no merit in the defense's contention that the State implied defense counsel was hiding evidence. The State's comments were directed at inconsistencies in the defense's trial theories when compared to the earlier course of the litigation, not at any improper concealment by defense counsel.

Specifically, the State noted that the defense had, for the first time at summation, acknowledged that defendant was the person in the garage shutting off the cameras; that the defense had newly conceded the vehicle in question was the Porsche Macan; and that the defense had introduced testimony about soundproofed rooms that had not previously surfaced in the proceedings. The State was entitled to highlight these developments as evidence of the defense's evolving theories and, by implication, the weakness of a theory that shifted over the course of trial. Commenting on the non-production of evidence and the timing of evidentiary revelations is a legitimate function of summation. Sinclair, 49 N.J. at 549; Bradshaw, 195 N.J. at 510; Johnson, 31 N.J. at 510. None of these remarks suggested defense counsel had suppressed discoverable evidence. The court finds no error.

D) Opining About Defendant's State of Mind

The court finds that the State's comments regarding defendant's state of mind constituted permissible rhetorical argument grounded in the evidence, not improper personal opinion or unqualified expert testimony.

The defense challenges three passages in which the State described what defendant may have been thinking or feeling after the murders, including that a person "never know[s] how you're going to react" after committing such an act, and that defendant was "thinking about God what I just did to my niece." Read in context, these remarks were not presented as evidence of defendant's actual thoughts but as rhetorical responses to the defense's theory that defendant's measured, organized personality was inconsistent with the chaotic crime scene.

The defense introduced this theory through Dr. Jack Gould's testimony, which portrayed defendant as measured and reserved. The State was entitled to respond by arguing that even a measured person could act in panic after committing multiple murders and that panic, not carelessness, explained the crime scene's disorganized character. C.H., 264 N.J. Super. at 135; Smith, 212 N.J. at 404.

The defense's reliance on Atwater, 400 N.J. Super. at 337, is misplaced. In Atwater, the court found improper a prosecutor's description of the defendant as "closing in on the kill" in a vehicular homicide case where no evidence established intentional or deliberate conduct. Ibid. Here, defendant faced four counts of

purposeful or knowing murder, the State introduced extensive forensic evidence of deliberate, planned conduct, and the jury was instructed that it could draw inferences about defendant's state of mind from the weapon used, the manner of killing, and the surrounding circumstances. Final Jury Charge 19-21, (Feb. 12, 2026), Caneiro, (No. 18-4915). Atwater has no application here.

The State's explicit acknowledgment during summation, "You still never know how you're going to react after something like that. I mean, none of us know," demonstrates that the State was not purporting to offer unqualified expert testimony on human behavior. CourtSmart at 2:15:54 p.m. to 2:16:02 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).[30] The comment was rhetorical, not evidentiary. At oral argument, the State reiterated the point that the thought process of a defendant is never in the record unless the defendant testifies and that since that was not the case here, its remarks about what defendant may have been thinking was fair comment.

The court also rejects the defense's argument that comments on defendant's possible mental state implicitly reminded the jury of his election not to testify. Defendant is the central figure in the case; the State's burden required it to prove purposeful or knowing conduct; and the jury charge squarely placed the state-of-mind determination with the jury. Prohibiting the State from any reference to

[30] See App. to Court's Op. Citation Twenty-Six.

defendant's possible mental state would effectively prevent it from meeting its burden of proof on the intent element of murder.

Finally, the State's inference that defendant felt underappreciated or resentful toward Keith was grounded in Exhibit S-64, a text message exchange in which Keith berated defendant in profane terms over financial disputes and business failures. Additional text messages, phone recordings, and witness testimony corroborated the same inference. The State's argument was reasonable and properly supported. Bradshaw, 195 N.J. at 510.

E) Facts Not in Evidence

The court finds that each of the State's arguments the defense characterizes as outside-the-record was in fact grounded in the evidence presented at trial.

1) DNA

The court finds no error in the State's argument regarding the jeans. The State held up Exhibit S-232 for the jury while arguing that the jeans in evidence were a single pair with a missing portion consistent with the condition visible to the jury. CourtSmart at 9:58:56 a.m. to 9:59:18 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).[31] The State was not attributing any laboratory conclusion to the State Police; it was inviting the jury to draw its own inference from the physical condition of the

[31] See App. to Court's Op. Citation Twenty-Seven.

exhibit, which is a function squarely within the province of summation. Sinclair, 49 N.J. at 548–49.

The court further finds no error in the State's argument that law enforcement cannot swab every location where blood is found. The defense's own brief quotes Allison Lane's testimony that the laboratory "does the analysis for the entire State of New Jersey" and that "not every item in a case can get analyzed at a given time." Def.'s Br. Mot. for New Trial 35. That testimony directly supports the State's argument. The defense cannot simultaneously rely on that testimony to criticize the investigation and then claim the State misstated the record by making the same point.

The court also finds reasonable the State's inference that the scarf was used during the stabbing of Sophia. Sophia's hair was found on the scarf; her blood appeared on the knife recovered in the foyer; her DNA and defendant's DNA were found on the black nitrile gloves; the scarf bore defects consistent with a stabbing motion; and Dr. Zhang testified that Sophia suffered seventeen sharp force injuries. From that combination of physical evidence, the State reasonably argued that the scarf had been wrapped around defendant's hand during the stabbing. Bradshaw, 195 N.J. at 510; Sinclair, 49 N.J. at 548–49.

2) Pre-Crime Conduct

The court finds no error in the State's argument that a Laserlyte training target and a second Sig Sauer firearm, both recovered from defendant's bedroom,

demonstrated defendant's accessibility to and familiarity with firearms during the relevant period.

The defense relies on Feaster, 156 N.J. at 62, Atwater, 400 N.J. Super. at 337, and State v. Lockett, 249 N.J. Super. 428, 435 (App. Div. 1991). Those cases are distinguishable. In both Feaster and Atwater, the courts found the prosecutor's commentary lacked adequate evidentiary support. In Lockett, the defendant was convicted of first-degree aggravated manslaughter, a recklessness-based offense, and the prosecutor's assertion that the defendant had "smiled" after the collision was entirely unsupported by the record. 249 N.J. Super. at 434. None of those conditions exist here. The physical evidence was in the record, and both parties acknowledge that defendant was in his bedroom for much of the night before the homicides. See Def.'s Br. Mot. for New Trial 37; State's Br. Opp'n Mot. for New Trial 42. The State's use of illustrative language to describe defendant's accessible familiarity with firearms was permissible. Bradshaw, 195 N.J. at 510.

3) Garage Fire

The court finds no error in the State's argument regarding the garage fire. The jury was shown video footage depicting movement near the area of origin shortly after defendant pulled the Porsche Cayenne out of the garage. The timing of the fire was a heavily contested factual issue at trial. The State was entitled to present competing inferences drawn from that footage and the surrounding evidence. Smith,

212 N.J. at 404. These remarks did not introduce facts outside the record; they constituted fair comment on the evidence and reasonable inferences drawn therefrom.

IV. CONCLUSION

The court does not find that the State's summation warrants a new trial. Of the many alleged improprieties the defense raises, counsel preserved only four objections at trial. The court overruled two: the State's comment that defense counsel was "just doing her job," and the State's comment that there was "nothing there" in the evidence pointing to Corey. The court finds both rulings appropriate. The court sustained the third objection regarding the State's comment about the limits of witness admissibility, gave a curative instruction, and finds that instruction adequate to remedy the isolated remark. The court overruled the fourth objection, regarding the State's assertion that Corey had nothing to do with the homicides and finds that ruling appropriate in context. As to the remaining alleged improprieties, the defense's failure to object at trial signals that counsel did not perceive them as prejudicial in the moment and deprived the court of an opportunity to cure any error contemporaneously. Frost, 158 N.J. at 84.

The court further finds that the State's summation, considered in its entirety, was grounded in the evidence presented at trial, advanced reasonable inferences, and responded appropriately to the defense's theories. The State never shifted the burden

of proof, vouched for witness credibility, introduced facts outside the record, or denigrated defense counsel in any manner that warrants relief. The court's comprehensive jury charge addressed the applicable legal standards, including the burden of proof, defendant's right not to testify, third-party guilt, the proper use of summation argument, and the limited purpose for which defendant's firearms could be considered. The court presumes the jury followed those instructions. Loftin, 146 N.J. at 390.

The court finds no manifest denial of justice under the law. R. 3:20-1; Dolson, 55 N.J. at 7. The motion for a new trial on the basis of prosecutorial misconduct in summation is denied.

POINT III: THE COURT'S RECEIPT OF EX PARTE WRITTEN SUBMISSIONS FROM BOTH PARTIES.

This Point concerns the court's receipt of written submissions from both parties in advance of anticipated testimony by Corey and the defense's contention that the procedure deprived defendant of a fair trial. The court addresses below the governing legal standards, the prejudice inquiry, the authority and interests underlying the procedure, the consent and disclosure questions, and two discrete issues that require treatment independent of the prejudice analysis.

I. ARGUMENTS

A) The Defense

Defendant contends that before and during trial the court engaged in a series of impermissible ex parte communications by accepting a written submission from the State on January 5, 2026,[32] without the knowledge or participation of the defense. According to the defense, the court read and relied upon the State's submission in forming its views regarding Corey before trial commenced, and the court's conduct at the January 12, 2026 sidebar was shaped by that one-sided account. The defense further argues that the State's representation in its submission that Corey had "no convictions or criminal background" infected the court's approach to the

[32] The defense asserts in it's brief that the State's letter was sent to the court in December 2025. Def.'s Br. Mot. for New Trial 42. The court received no letter in December 2025. The State's brief asserts that its letter was delivered to a law clerk on January 5, 2026. State's Br. Opp'n Mot. for New Trial 45. The court's records reflect receipt on January 5, 2026.

admissibility determinations issued on January 27, 2026. The defense acknowledges that it ultimately submitted its own twenty-four-page ex parte letter on January 19, 2026, but contends that the resulting asymmetry in timing, and the subsequent disclosure of that letter to the State at the January 23, 2026 conference, prejudiced defendant by exposing its cross-examination strategy for a significant anticipated witness. Relying principally on In re Yaccarino, 101 N.J. 342 (1985), and In re Dubov, 410 N.J. Super. 190 (App. Div. 2009), the defense argues that ex parte judicial communications are impermissible, that consent does not cure the defect, and that the contents must be promptly placed on the record. The defense maintains that these procedural failures, viewed collectively, denied defendant a fair trial and warrant a new trial under Rule 3:20-1.

B) The State

The State argues that the court extended an identical invitation to both parties before trial to submit written proffers to prepare for anticipated evidentiary disputes, and that the defense's complaint about asymmetry is a product of its own initial decision to elect to remain silent. To reiterate, the State submitted its letter on January 5, 2026; the defense submitted its own twenty-four-page letter on January 19, 2026, which the defense itself captioned, “Ex Parte Letter Re: Corey Caneiro” and described it as filed “pursuant to the court's request.” On January 23, 2026, the court convened for a conference at which both submissions were addressed in full,

and both parties argued each proffered evidentiary item. The State argues that the January 27, 2026 admissibility opinion governed no evidence the jury received because Corey never testified, and therefore no prejudice resulted. The State further represents that it did not review the defense's January 19, 2026 letter until it was appended to the instant motion filed March 16, 2026. The State accordingly maintains that the motion should be denied.

II. GOVERNING LAW AND LEGAL ANALYSIS

A) Governing Law

Rule 3:20-1 provides that a trial judge "may grant the defendant a new trial if required in the interest of justice," but that the court

> shall not . . . set aside the verdict of the jury as against the weight of the evidence unless, having given due regard to the opportunity of the jury to pass upon the credibility of the witnesses, it clearly and convincingly appears that there was a manifest denial of justice under the law.

In Dolson, the Supreme Court of New Jersey explained that the trial judge must consider "not only tangible factors relative to the proofs as shown by the record, but also appropriate matters of credibility . . . and the intangible 'feel of the case' which he has gained by presiding over the trial." 55 N.J. at 6. Similarly, Kulbacki v. Sobchinsky requires the trial judge to weigh the evidence and determine whether the verdict is so contrary to its weight as to constitute a miscarriage of justice. 38 N.J. 435, 458-59 (1962). A "miscarriage of justice" encompasses a "pervading sense of wrongness" arising from a manifest lack of credible evidence, an obvious

overlooking of crucial evidence, or a clearly unjust result. Risko, 206 N.J. at 521-22. A new trial is not warranted unless the case culminates in a clearly unjust result. Hayes, 231 N.J. at 386.

B) Analysis of Prejudice

The threshold inquiry is prejudice. The defense's theory rests on three related premises: (1) that the State's January 5, 2026 submission gave the court a one-sided account before trial, producing evidentiary rulings favorable to the State; (2) that disclosure of the defense's January 19, 2026 letter to the State at the January 23, 2026 conference armed the prosecution with a roadmap of the defense's cross-examination strategy for Corey; and (3) that the State's representation regarding Corey's criminal history infected the court's analytical framework before the defense could respond. Each is examined in turn.

1) The January 27, 2026 Order and Opinion

The entire evidentiary framework the court constructed for Corey's potential testimony was rendered moot when neither party called him as a witness. The court issued a forty-nine-page order and opinion on January 27, 2026, resolving sixteen separate categories of proffered evidence. Corey did not testify. No ruling from that opinion was applied to any evidence the jury heard. The jury received no evidence, whether admissible or excluded, that was shaped, limited, or barred by the January 27, 2026 opinion. Even still, at oral argument, the court inquired whether Mr.

Murray was challenging the evidentiary rulings or just the procedure itself. Mr. Murray clarified that his concern was not directed at the court's evidentiary findings, but rather the procedure employed by the court.

Whether the court prepared for those rulings through ex parte letters, formal motion practice, or in-trial sidebars is a question that's answer has no bearing on the verdict. The process by which the court arrived at a set of admissibility determinations matters only if those determinations were applied to evidence the jury considered. They were not. This circumstance is independently sufficient to deny the motion under Rule 3:20-1.

The contrast with In re Murchison, 349 U.S. 133 (1955), the leading federal case on ex parte judicial conduct in criminal proceedings, illustrates the point. In Murchison, a judge acted as a one-man grand jury and then presided over the contempt trial of a witness who had appeared before him. Id. at 134-36. The Supreme Court of the United States found a due process violation because the ex parte hearings had directly produced the charges tried and the judge's prior exposure unavoidably shaped his adjudication of those charges. Id. at 136-37. The causal connection between the ex parte contact and the outcome was complete and traceable. Here, the causal chain the defense requires breaks at its first link: the ex parte submissions informed preparation for admissibility rulings that governed no

evidence the jury received, because the anticipated witness was never called. Murchison does not support relief in the absence of that connection.

2) The State's Alleged Roadmap Advantage

The defense argues that disclosure of its January 19, 2026 ex parte letter at the January 23, 2026 conference gave the State advanced knowledge of the defense's intended cross-examination of Corey, eliminating the element of surprise. The defense relies on State v. Alston, 212 N.J. Super. 644, 648 (App. Div. 1986), for the proposition that a defendant is under no obligation to disclose defense strategy to the State before trial. The principle stated in Alston is correct as a general matter, but it does not resolve the prejudice question on these facts for two independent reasons.

First, the State has represented in its opposition that it did not review the defense's January 19, 2026 letter until it was appended to the defense's moving papers on March 16, 2026. The premise that the State possessed the defense's cross-examination strategy during trial is not established by the record.

Second, and independently, Corey never testified. A strategic roadmap to a cross-examination that was never conducted carries no legal consequence. Alston's protection of defense strategy is designed to prevent the State from using advanced knowledge to impede or respond to the defense at trial. Where the anticipated examination never occurred, no such impediment was possible and no harm attributable to any disclosure could have materialized. The defense's reliance on

Alston accordingly assumes a factual predicate, namely an examination the State was able to prepare against, that does not exist on this record.

The defense further suggests the State may have refrained from calling Corey because it had advanced knowledge of the defense's planned cross-examination, thereby depriving the defense of a favorable witness. This inference is not established by the record. Moreover, even crediting the theory arguendo, the defense retained its own right to call Corey and elected not to do so. Under State v. Clawans, 38 N.J. 162, 170-71 (1962), as refined by State v. Hill, 199 N.J. 545, 560-61 (2009), a party's unexplained failure to call a witness who would ordinarily be expected to testify in its favor may, where that witness was within the party's power to produce and could offer non-cumulative relevant evidence, support an adverse inference. Corey was the central figure in the defense's third-party guilt theory, was identified as a potential witness by both sides, and was within the defense's power to subpoena. The defense's choice not to call him, and its further choice not to request a Clawans instruction, is relevant to the prejudice analysis.

There is a further dimension to the asymmetry argument that the defense's brief does not address. The asymmetry, to the extent it existed at all, ran in the defense's favor rather than against it. The defense's January 19, 2026 letter was discussed at the January 23, 2026 conference and incorporated into the court's preparation for the January 27, 2026 opinion. The State's letter was similarly

discussed, however, the State never read the defense's letter at any point during trial. The State has represented, and nothing in the record contradicts, that it did not review the defense's January 19, 2026 submission until it was attached as an exhibit to the defense's moving brief on March 16, 2026. This means the State litigated the January 23, 2026 conference entirely without knowledge of what the defense's letter contained, and it presented argument on the January 27, 2026 admissibility determinations without having read the defense's legal theory or factual proffer. Both the defense and the State were made aware of the general content of the letters by way of argument on January 23, 2026. Therefore, neither party had an advantage over the other.

3) The Structural Error Framework

The defense invokes principles of procedural due process and suggests the irregularity was so fundamental as to warrant relief without a showing of actual prejudice. In United States v. Gonzalez-Lopez and Arizona v. Fulminante, the Supreme Court catalogued the limited categories of structural error: the denial of the right to counsel, the denial of self-representation, the denial of a public trial, the denial of trial by jury by the issuance of a defective reasonable doubt instruction, an unlawful exclusion of grand jurors of a defendant's race from a grand jury, and a biased judge. 548 U.S. 140, 148-49 (2006); 499 U.S. 279, 309-11 (1991). Similarly, the Court in Fulminante confined structural error to defects that permeate the entire

trial in which "a criminal trial cannot reliable serve its function as a vehicle for determination of guilt or innocence," making meaningful review impossible. 499 U.S. at 310 (quoting Rose v. Clark, 478 U.S. 570, 578 (1986)). The procedure at issue here does not fall within any recognized category of structural defect. The analysis is therefore governed by the prejudice standard, and the court turns to whether the record establishes prejudice.

C) The Court's Authority and the Interests Served by the Procedure

1) Inherent Case Management Authority, Rule 3:9-1(e), N.J.R.E. 611, and State v. Perry

Rule 1:1-2 authorizes courts to proceed "in any manner compatible" with just determination, simplicity in procedure, and fairness in administration, and permits departure from procedural rules where adherence "would result in an injustice." Tilghman, 385 N.J. Super. at 53-54, recognized courts' "long standing tradition" of broad discretion in managing proceedings, tracing that tradition to Sullivan, 46 N.J.L. at 447. Rule 3:9-1(e) is particularly significant here. It expressly provides for pretrial conferences at which the court may address, on good cause shown, matters including the admissibility of evidence. The Supreme Court of New Jersey recognized in State v. Hawthorne, 49 N.J. 130, 142 (1967), that trial courts retain discretion, in appropriate cases, to rule on the admissibility of evidence before trial. 49 N.J. 130, 142 (1967), overruled on other grounds by, State v. Sands, 76 N.J. 127 (1978). State v. Cordero, 438 N.J. Super. 472, 484-85 (App. Div. 2014) reaffirmed

that principle. The written submission procedure employed here was an informal analog to what Rule 3:9-1(e) expressly contemplates and what Coredero and Hawthorne permit: advance resolution of complicated, foreseeable evidentiary disputes in a manner that serves the orderly administration of justice. That authority was not reconstructed after the fact. The court's own January 27, 2026 order and opinion identified it at the time of the ruling, observing at page fourteen that "a trial court retains discretion, in appropriate cases, to rule on the admissibility of evidence pre-trial," citing Cordero, 438 N.J. Super. at 484-85 and Hawthorne, 49 N.J. at 142. E.g., Bellardini v. Krikorian, 222 N.J. Super. 457, 464 (1988) (cautioning against pre-trial evidentiary findings that would best be addressed in a trial context). The procedural vehicle was imperfect; the underlying interest it served is one the Court Rules and governing precedent have specifically validated.

The necessity of advance preparation in this case is demonstrated by the product of that preparation. The January 27, 2026 order and opinion runs forty-nine pages and addresses sixteen discrete categories of proffered evidence, each analyzed under multiple evidentiary standards, including N.J.R.E. 401, N.J.R.E. 402, N.J.R.E. 403, N.J.R.E. 404(b), N.J.R.E. 607, N.J.R.E. 801, N.J.R.E. 802, and N.J.R.E. 803, and under the particularized requirements of Fortin, 178 N.J. at 591, State v. Perry, 225 N.J. 222, 239 (2016), and State v. Koedatich, 112 N.J. 225, 300 (1988). No trial court could have produced analysis of that depth and specificity in real time during

the examination of a witness. The alternative to advance preparation was not a clean in-trial ruling process; it was a series of unresearched determinations made under time pressure, in the presence of the jury, on contested legal issues requiring thorough independent analysis. That alternative would have been a greater disservice to both parties and a greater source of mid-examination prejudice than the procedure that was employed.

N.J.R.E. 611(a) imposes a mandatory obligation, stated by the word, "shall" on trial courts to exercise "reasonable control over the mode and order of interrogating witnesses and presenting evidence" to make interrogation effective for ascertaining the truth, avoid needless consumption of time, and protect witnesses from harassment or undue embarrassment. N.J.R.E. 611(a)(1)-(3). Addressing sixteen categories of third-party guilt evidence in real time at trial, without any prior assessment of each item's legal sufficiency, would have produced precisely the disruptions and inconsistent rulings that N.J.R.E. 611 exists to prevent.

The advance-preparation procedure was also a direct response to a judicial obligation that Perry makes explicit. Perry held that trial courts bear an active duty to prevent unsupported third-party guilt claims from "infecting the process," and that defendants may not "merely introduce evidence of some hostile event" and "leave its connection with the case to mere conjecture." 225 N.J. at 239. This is not a discretionary gatekeeping function; it is an affirmative obligation the court must

fulfill. Perry distinguished cases like State v. Sturdivant, 31 N.J. 165, 179 (1959), and Koedatich, 112 N.J. at 299-300, both of which recognized that the defendant's right to present third-party guilt evidence does not override the court's authority to require a demonstrated factual link before such evidence reaches the jury. In a case involving sixteen categories of contested third-party guilt evidence developed over a multi-week trial, fulfilling the Perry obligation through real-time rulings as witnesses sat on the stand was not a realistic option if those rulings were to reflect the careful, fact-sensitive analysis that Fortin, 178 N.J. at 591, requires. The written submission process was the court's considered mechanism for discharging that obligation before, rather than during, the examination of witnesses.

2) The Defendant's Constitutional Right to Present a Defense and the Third Party's Interests

The Sixth Amendment's Compulsory Process Clause guarantees a defendant the right to present witnesses and evidence in his defense. Washington v. Texas, 388 U.S. 14, 19 (1967). In Chambers v. Mississippi, 410 U.S. 284, 294-96 (1973), the Supreme Court held that a state cannot apply evidentiary rules that prevent a defendant from introducing highly reliable exculpatory evidence that another person committed the crime charged. Holmes v. South Carolina, 547 U.S. 319, 324-25 (2006), reaffirmed that principle while emphasizing that states may apply evidentiary rules to exclude defense evidence provided those rules are not arbitrary and serve legitimate interests. Rock v. Arkansas, 483 U.S. 44, 55-56 (1987), further

explained that evidentiary rules cannot categorically exclude material defense evidence where the exclusion is not justified by a sufficiently weighty state interest. New Jersey independently protects these rights. State v. Garron, 177 N.J. 147, 168 (2003).

The right to present a defense is not unlimited. United States v. Scheffer, 523 U.S. 303, 308 (1998). New Jersey's requirement under Fortin that third-party guilt evidence demonstrate "some link . . . between the third party and the victim or crime, capable of inducing reasonable people to regard the evidence as bearing upon the State's case," 178 N.J. at 591, satisfies the constitutional threshold established in Holmes and Chambers because it is neither arbitrary nor categorically exclusionary. It requires only that proffered accusations be tethered to the facts of the charged case in some discernible way. The Fortin standard is far less demanding than that in Chambers itself, where the excluded evidence was a confession to the charged crime from a witness present at trial. A rule requiring a rational factual link falls well within a state's authority to set reasonable evidentiary standards. Scheffer, 523 U.S. at 308.

The advance-preparation procedure served defendant's Sixth Amendment interests rather than impairing them. A court caught unprepared to resolve sixteen contested evidentiary categories in real time, in the presence of the jury, would have been far more likely to exclude proffered evidence reflexively than with deliberation.

The January 27, 2026 opinion demonstrates the contrary: having had the benefit of both parties' submissions and a full argument session, the court was positioned to rule with the precision that Holmes, Garron, and Fortin require. On several significant categories of proffered evidence, the court ruled in the defense's favor. The court permitted cross-examination on Corey's financial distress, including his status as a trust beneficiary and trustee and the existence of the probate lawsuit filed against him following the murders. It permitted inquiry into statements by Corey reflecting anticipated financial improvement, admitted under the state-of-mind exception, N.J.R.E. 803(c)(3), because those statements bore directly on the defense's theory of motive. It permitted cross-examination on the existence of civil suits filed against Corey in 2018. That the court simultaneously excluded items lacking the required link to the charged crimes under Fortin or carrying undue prejudice risk under N.J.R.E. 403 is not evidence of bias; it is evidence of the fact-sensitive gatekeeping that Koedatich, 112 N.J. at 300, demands.

A non-party accused in the context of a third-party guilt defense has no procedural standing to challenge the substance of questions directed to trial witnesses. Cf. Paul v. Davis, 424 U.S. 693, 711-12 (1976) (holding that reputational injury alone does not give rise to a cognizable constitutional claim absent a corresponding liberty or property deprivation). New Jersey courts have nevertheless held that the State's interest in preventing proceedings from becoming forums for

unfounded accusations against private individuals may be vindicated through the N.J.R.E. 403 balancing framework and the Fortin link requirement. Perry, 225 N.J. at 239; Koedatich, 112 N.J. at 300. The gatekeeping the court performed here gave effect to that interest while simultaneously preserving defendant's constitutional right to present third-party guilt evidence that satisfied New Jersey's evidentiary standards.

3) The Procedure in the Context of State v. Cotto

The defense's prejudice argument gains additional context from State v. Cotto, 182 N.J. 316, 334 (2005), which held that when a defendant plans to assert innocence by casting blame on a third party, the State must be notified so it can conduct a proper investigation. Cotto's notice requirement reflects a recognition that third-party guilt defenses carry investigative implications for the opposing party.

Against that framework, the written submission process afforded the defense considerably more protection than Cotto ordinarily contemplates. The defense had identified Corey as a potential third-party guilt target no later than 2019, when prior counsel raised the subject before this court. Under Cotto, the defense was obligated to notify the State of that theory so the State could investigate. Ibid. The advance-preparation procedure did something different: it gave the defense a vehicle to lay out the full legal and factual basis of its theory, including the specific categories of evidence it intended to develop through cross-examination, without disclosing any

of those details to the State. The defense submitted a twenty-four-page letter setting forth its theory comprehensively, and the State was not in possession of it until March 2026. The Court confirmed with the State during oral argument that it did not review the defense submission until it was attached to the defendant's motion for a new trial in March 2026. The defense was thereby able to obtain binding admissibility rulings while keeping its cross-examination strategy entirely confidential from the prosecution. The claim that this procedure constituted a miscarriage of justice is difficult to reconcile with the fact that it gave the defense more strategic protection than Cotto would otherwise have required.

4) Departure from Preferred Practice

The court acknowledges that the receipt of written submissions from both parties, without simultaneous disclosure, departs from the preferred practice under Rule 1:2-1, which requires that proceedings be conducted in open court, and from Code of Judicial Conduct Rule 3.8, which disfavors ex parte communications concerning a pending proceeding.[33] A procedure requiring simultaneous submission on a single court-ordered date with immediate reciprocal disclosure would have been

[33] N.J.A.C. 1:1-14.5 provides that where ex parte communications are unavoidable, the judge shall advise all parties of the communications as soon as possible thereafter. This provision functions as a disclosure obligation triggered by communications that have already occurred. It does not operate as affirmative authorization for a court to solicit sequential ex parte submissions from the parties, and the court does not rely upon it for that purpose.

preferable and is commended for cases of similar complexity going forward.[34] Departure from preferred practice is not, without more, grounds for a new trial. The question is whether the departure produced a manifest denial of justice. Dolson, 55 N.J. at 6. For the reasons set forth throughout this opinion, it did not.

D) Consent, Disclosure, and the Defense's Remedial Options

1) In re Yaccarino, Zuckerman v. Piper Pools, and the Timing Asymmetry

Yaccarino, is the foundational New Jersey case on improper ex parte judicial conduct. There, the Supreme Court of New Jersey held it was "highly improper" for a judge to conduct proceedings, including receiving testimony and reaching factual conclusions, in chambers, off the record, and without attorneys present. 101 N.J. at 385. The court emphasized that a judge's duty to adhere to procedural structures is necessary to promote public confidence in the judiciary and that ex parte proceedings undermine that confidence regardless of outcome. Ibid.

The defense relies principally on Yaccarino for the proposition that ex parte judicial communications are impermissible regardless of consent. A careful comparison of the factual records reveals meaningful distinctions. In Yaccarino, the

[34] This case presented an unusual combination of factors distinguishing it from typical third-party guilt disputes: sixteen separate categories of proffered evidence, extensive pretrial motion practice on unrelated grounds, a high-profile proceeding generating substantial media coverage, and a third-party target who was a private individual with no criminal conviction. Future cases of similar complexity would be better served by simultaneous, reciprocal submission under Rule 3:9-1(e) on a single court-ordered date, with immediate disclosure to both parties.

judge met privately with parties, conducted proceedings off the record, and excluded attorneys from discussions bearing on the merits of the case. Id. at 384-86. None of those features are present here. No meeting between the court and any party occurred. No proceedings were conducted outside the presence of counsel. Both parties were on equal footing in knowing that submissions were being solicited. The submission process was open, invited, and disclosed to both parties before any ruling issued. The concern animating Yaccarino, that judicial decision-making was occurring in a hidden forum from which one party was excluded, is not implicated by a process where both parties were invited simultaneously and both chose how to respond.

A factual point the defense's brief does not address deserves attention. The fifteen-day asymmetry the defense characterizes as a judicial failing is a product of the defense's own choices, not the court's. At the December 5, 2025 in-chambers conference, the court extended an identical invitation to both parties. The State accepted and submitted its letter on January 5, 2026. The defense stayed silent. That initial silence was the defense's prerogative; it was not compelled or penalized. Having voluntarily elected to remain silent when afforded an equal opportunity to present its position prior to the State, the defense fails to demonstrate that any resulting asymmetry constitutes error attributable to the court. Zuckerman ex rel. Zuckerman v. Piper Pools, Inc., 232 N.J. Super. 74, 80 (App. Div. 1989), establishes

the consent exception applicable where ex parte contact does occur: a court "should not confer or meet with one party or attorney to the exclusion of the adversary unless there is express consent." Here, that consent was both expressed and confirmed by conduct, indeed by the defense's own written language.

The defense additionally invokes language in both Yaccarino and Dubov to the effect that ex parte communications with the court are problematic "even with the parties' consent." Dubov, 410 N.J. Super. at 201-02 (citing Yaccarino, 101 N.J. at 385). That language, read in context, was written against the backdrop of the specific circumstances addressed in each case: proceedings conducted in secret, in private chambers, off the record, with attorneys absent, in which one party was entirely excluded from judicial decision-making. In that context, the "even with consent" observation reflects a legitimate concern that public proceedings cannot be privatized by agreement, because the open-court requirement serves interests beyond the parties themselves, including the public's interest in transparent judicial proceedings. See Rule 1:2-1. That observation does not address the different situation presented here, where both parties were invited simultaneously to participate in a process both knew was occurring, the process was disclosed before any ruling issued, and the culminating conference and written opinion were fully on the record. Zuckerman, 232 N.J. Super. at 81, which post-dates Yaccarino, addresses directly the question of what role consent plays when ex parte contact

occurs, and it establishes that consent is the operative, legitimating factor in that setting. Where a later, more specific authority directly addresses consent in the judicial contact context, it provides the applicable framework over general statements in earlier cases decided against different factual backdrops.

The defense's January 19, 2026 submission was captioned, "Ex Parte Letter Re: Corey Caneiro." It opened with the statement that it was submitted "pursuant to the court's request." It invited the court to request additional documents. These characterizations were authored by defense counsel in a document they chose to draft and submit. A party that voluntarily titles its own submission an ex parte letter, describes it as filed pursuant to a judicial request, and invites further ex parte correspondence has participated in the procedure it now challenges. The defense's post-verdict contention that the written submission process constituted a miscarriage of justice is difficult to reconcile with its own contemporaneous written description of its participation in that process.

The record of January 12, 2026 sidebar further confirms this. At that sidebar, the court stated:

> Remember how I said before the trial started, that if we're going to go down a certain path, that it would be a good idea to provide the court with law in advance so that I would have a good understanding of where we were going. So far, I have not received that from the defense. . . . I would suggest that you guys give me something so that I have more of a basis to know where you're going -- and again -- I'm not going to take your strategy away. You can

> send it to me privately. They don't have to see it. But I at least have to know where you're going.
>
> [CourtSmart at 4:20:36 p.m. to 4:21:16 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915). [35]]

Defense counsel responded, "Sure, Judge, I was going to supply something before Corey testified because if there was anyone I was going to ask any of those types of questions to it would be him." CourtSmart at 4:21:16 p.m. to 4:21:42 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).[36]

Defense counsel's response constitutes express consent within the meaning of Zuckerman. Counsel acknowledged the court's request, identified the precise context in which she would comply, and followed through by submitting a twenty-four-page letter one week later. The court had also explicitly told defense counsel at that sidebar, "I'll never hold you to anything. You don't have to do anything." CourtSmart at 4:21:09 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).[37] That direct assurance forecloses any argument that the defense's eventual compliance was the product of judicial compulsion rather than professional judgment. The consent was voluntary, the language describing it was the defense's own, and the written submission was made with full knowledge of its character, as the defense's own caption makes plain.

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[35] See App. To Court's Op. Citation Twenty-Eight.
[36] See App. to Court's Op. Citation Twenty-Nine.
[37] See App. to Court's Op. Citation Thirty.

2) In re Dubov and the Disclosure Obligation

Dubov, provides that when ex parte communications occur, the judge must "promptly place the contents of the communication on the record and afford the parties an opportunity to seek recusal or other appropriate relief." N.J. Super. at 202. The defense invokes Dubov to argue that receipt of the State's ex parte letter on January 5, 2026 required immediate disclosure and that the sixteen-day gap before the defense learned of the letter's existence violated that obligation.

A careful reading of Dubov reveals why the sixteen-day gap is not dispositive. Dubov arose in the context of an Office of Administrative Law (hereinafter "OAL") proceeding governed by the OAL's own procedural regulations, not in the context of a superior court criminal trial. The Appellate Division was therefore applying Dubov against an institutional backdrop in which the OAL judge has considerably less inherent authority to manage complex evidentiary disputes than a superior court judge presiding over a multi-week criminal trial. The analytical framework that Dubov constructed, requiring prompt disclosure following an accidental ex parte communication, was calibrated to that administrative context. Moreover, Dubov addressed a genuinely accidental ex parte communication, a judge who, without advance arrangement, received information from one party outside the presence of the other. Id. at 200-02. In that context, the Appellate Division required only that the communication be placed on the record "promptly," a standard it described in

terms of timeliness and completeness, not instantaneous disclosure. Id. at 202. Dubov did not address a scenario where both parties knew before trial that submissions were being solicited and one party voluntarily declined to participate until January 19, 2026. The rationale in Dubov rationale is the prevention of undisclosed judicial influence, and that concern carries its greatest force where one party is entirely unaware that any communication has occurred. Here, the defense knew from the December 5, 2025 conference that the court had invited both parties to submit letters, and its initial silence was itself a recognition that the invitation existed.

The measure of Dubov compliance that matters most is not the gap between receipt and disclosure, but the gap between disclosure and the first ruling. Dubov's core purpose is to ensure the disadvantaged party can seek relief before the ex parte communication produces an outcome it cannot contest. Ibid. On that measure, the record is clear: the State's letter was discussed with the defense on January 20, 2026; the January 23, 2026 conference gave both parties a full opportunity to argue every proffered evidentiary item; and the January 27, 2026 opinion, the first ruling, came seven days after disclosure. The Dubov obligation also requires that the contents of the communication be placed on the record. Ibid. The January 27, 2026 opinion satisfied that requirement. It recounted each party's legal and factual arguments on all sixteen categories and resolved each item with independent analysis. The

defense's contention that, as of the filing of this motion, it had "never been advised of what is contained in the State's letter," is inconsistent with the January 27, 2026 opinion, which placed the substance of both submissions on the record in full. Def.'s Br. Mot. for New Trial 43

The defense had seven days between the January 20, 2026 disclosure and the January 27, 2026 opinion to seek recusal under Rule 1:12-1, move for production of the State's letter under Rule 3:13-3, request a continuance, or move for a mistrial. It pursued none of these remedies. Instead, it appeared at the January 23, 2026 conference, argued each item on the merits, and raised no contemporaneous objection to the process. Where the disclosure precedes every ruling by a week and the affected party participates fully in a pre-ruling conference without objection, the Dubov obligation has been satisfied.

3) Remedies Available to the Defense After January 20, 2026

The defense's conduct after it learned of the State's January 5, 2026 letter on January 20, 2026 is independently relevant to the prejudice inquiry. When a party believes it has been materially harmed by a procedural irregularity, its professional obligation is to seek available remedies at the time they can be obtained. State v. Macon, 57 N.J. 325, 333 (1971) (emphasizing the importance of contemporaneous objection to allow the court to address and correct alleged errors when they arise).

A failure to raise a timely objection is a relevant consideration in evaluating whether the claimed error produced actual prejudice. Josephs, 174 N.J. at 98 .

Defense counsel's own brief acknowledges that remedies were available. In its brief, the defense states that "the defense could have responded via letter sooner, and/or the defense could have filed an affirmative motion for the court to rule on, with an opportunity to argue the issues more comprehensively on the record." Def.'s Br. Mot. for New Trial 45. The defense's concession that formal remedies were accessible during trial bears directly on its post-verdict claim that the procedure produced a manifest denial of justice.

After the January 27, 2026 opinion issued, the defense did not move for reconsideration of any of the sixteen rulings. When it became clear that neither party would call Corey as a witness, the defense did not seek any relief predicated on the January 27, 2026 rulings or the process. The defense did not request a Clawans instruction, did not move for a mistrial on ex parte grounds at any point during the six-week trial, and did not raise the procedure as a basis for relief at any time before the verdict.

This pattern of non-action is relevant to the prejudice inquiry. Prejudice under Rule 3:20-1 must be demonstrated by the record; it cannot rest on a post-verdict recharacterization of conduct that generated no contemporaneous objection, no motion for relief, and no request for remediation during the trial. Macon, 57 N.J. at

333. The defense's six-week silence on this issue bears on the claim of manifest injustice. Furthermore, at oral argument the court reminded counsel that at the end of each trial day and before long breaks, the court asked the parties if there was anything that they wish to put on the record. Additionally, the court reminded defense counsel that it had ample opportunities to ask for a mistrial before the jury rendered its verdict, in light of the fact that this was a multi-week trial and the State's summation lasted two days. Mr. Murray acknowledged Frost is clear that the lack of objecting is an indication that the defense did not have an issue with what was being stated at the time. 158 N.J. at 84. Mr. Murray also argued during oral argument that the defense did not ask for a mistrial because of several considerations, including the likelihood of success. The court does not find these considerations to overcome the presumption under Frost, 158 N.J. at 84. There is no indication in the record pertaining to likelihood of success in moving for a mistrial, and the defense is not a position to assume the outcome of judicial rulings. Mr. Murray also noted that while a Clawans charge or hostile witness treatment was theoretically available to the defense, those options were not pursued.

E) The January 12, 2026 Sidebar and the State's Criminal History Representation

Two aspects of the defense's argument require analysis independent of the prejudice findings above: (1) whether the State's January 5, 2026 ex parte letter caused or influenced the court's conduct at the January 12, 2026 sidebar; and (2)

whether the State's representation that Corey had no convictions or criminal background infected the court's approach to the January 27, 2026 rulings.

1) January 12, 2026: The Paolucci Sidebar

As discussed in Point I of this opinion, the court's conduct at the January 12, 2026 sidebar with respect to the cross-examination of Benjamin Paolucci occurred outside the presence of the jury, with white noise playing, and therefore could not have influenced the jury's perception of the proceedings in any direct sense. In the context of Point III, the narrower question is whether the court's conduct at that sidebar was caused by, or reflected the influence of, the State's January 5, 2026 letter. The record does not establish that connection. As a threshold matter, the court made no evidentiary rulings relating to Corey before the January 23, 2026 conference. The January 12, 2026 sidebar produced a single ruling on a Corey question: the court overruled the State's objection and permitted defense counsel's cross-examination of Paolucci to proceed. That ruling favored the defense.

The court's statement at that sidebar is dispositive on this point: "I don't know. I'm asking what it is because no one has told me that." CourtSmart at 4:17:16 p.m. to 4:17:20 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).[38] As of January 12, 2026, the court had not been informed, from any source, including the State's letter, of the specific allegations of violent conduct, domestic incidents, and restraining orders the

[38] See App. to Court's Op. Citation Thirty-One.

defense was preparing to develop. The court's skepticism was a product of having no information at all regarding the factual predicate for the defense's inquiry, not a product of one-sided information from the State.

The defense contends the State's letter primed the court to receive defense evidence skeptically. But if the court had no knowledge of the specific defense allegations when the January 12, 2026 sidebar occurred, the State's letter cannot have functioned as a primer. The State's letter addressed anticipated defense strategy in general terms and noted the absence of criminal convictions. It was not conveyed, because the State did not possess the specific allegations of prior arrests, domestic violence incidents, and restraining orders that defense counsel raised at sidebar. Confronted with those allegations for the first time at sidebar on January 12, 2026, the court's response was the same it would have been absent any communication from the State: it required counsel to establish an evidentiary basis before the question could proceed. That requirement flows from Fortin's link requirement, Perry's infection-of-the-process concern, and N.J.R.E. 611(a)'s mandate that courts control the mode of witness examination.

Significantly, the first evidentiary ruling the court made on a question regarding Corey, after the State's letter had been received, was to overrule the State's objection and permit defense counsel's cross-examination of Mr. Paolucci to proceed. If the State's letter had adversely inclined the court toward the defense, one

would not expect the first ruling to favor the defense. The court overruled the State's objection once counsel articulated the basis for the inquiry and permitted the examination to proceed. The record does not establish the causal connection the defense asserts between the State's letter and the court's conduct at sidebar.

The defense draws support from O'Brien, 200 N.J. at 539, and Colucci, 326 N.J. Super. at 179, for the proposition that judicial conduct need not take verbal form to be prejudicial. Both cases require, however, that prejudicial conduct have occurred in a form capable of reaching the jury. Atwater, 400 N.J. Super. at 337 (the controlling inquiry is "the capacity to unfairly influence the jury"); Colucci, 326 N.J. Super. at 179 (prejudice must be identifiable and cannot rest on attenuated inference). The sidebar occurred outside the jury's presence with white noise playing. Whatever the court's tone at that sidebar, no inference of judicial partiality capable of reaching the jury could be drawn from it. O'Brien and Colucci are therefore not applicable in this context.

2) The State's Criminal History Representation and the January 27, 2026 Rulings

The defense contends that the State's January 5, 2026 letter presented a materially one-sided account of Corey by representing that records showed no convictions or criminal background, while the defense's January 19, 2026 letter alleged a history of arrests, domestic violence incidents, and restraining orders. The defense argues this asymmetry infected the court's analytical framework before the

defense could respond. The court acknowledges this as the most substantial version of the defense's procedural argument.

The timing asymmetry was real. The State's letter was received January 5, 2026; the defense's contrary account did not arrive until January 19, 2026, a gap the defense itself created by initially electing to remain silent to the court's December 2025 invitation. There was a period during which the court possessed only the State's characterization. The question is whether that period produced any identifiable prejudice to the rulings the court ultimately made. Three independent considerations establish that it did not.

First, the defense's January 19, 2026 letter gave the court a detailed, documented account of Corey's alleged conduct before any ruling issued. The court received the defense's submission a full eight days before it issued the January 27, 2026 opinion. Whatever asymmetry existed in the period between January 5, 2026 and January 19, 2026 was corrected before the analytical work producing the opinion began.

Second, the January 23, 2026 conference gave defense counsel a direct and unrestricted opportunity to argue each proffered item before the court. That conference is the critical procedural event for Dubov purposes, and it eliminated whatever practical effect the timing asymmetry might have otherwise held. Dubov's core requirement, that the party be "afforded an opportunity to seek recusal or other

appropriate relief," was satisfied in full. 410 N.J. Super. at 202. A comparison with Yaccarino again demonstrates why the defense's reliance on ex parte communication doctrine overstates the case. In Yaccarino, the affected party had no opportunity at any point to contest the substance of the private communications. 101 N.J. at 385. Here, the defense had a full conference at which it argued every item on the merits, and the January 27, 2026 opinion placed both parties' positions on the record in detail.

Third, the January 27, 2026 opinion analyzed each item of proffered evidence independently under the applicable evidentiary standards. Items were excluded not because the court had accepted the State's characterization of Corey as a person with a clean record, but because specific proffered items failed to establish the nexus between the third party and the charged crimes required by Fortin, 178 N.J. at 591. That standard, requiring "some link . . . between the third party and the victim or crime, capable of inducing reasonable people to regard the evidence as bearing upon the State's case," does not turn on whether the third party holds a criminal conviction. A person with no prior record may be connected to a crime through circumstantial evidence meeting the Fortin threshold; equally, a person with a record of prior bad acts cannot introduce those acts as third-party guilt evidence absent the required link. The January 27, 2026 opinion reflects this understanding: items were excluded on specific grounds under N.J.R.E. 401, N.J.R.E. 402, and N.J.R.E. 403, not on a

blanket finding that Corey was beyond suspicion. As noted above, the opinion granted the defense several meaningful items of relief, including financial distress evidence, state-of-mind statements, and civil suit evidence, which would not be expected if the court's analysis had been infected by the State's favorable characterization.

The defense has not identified a single ruling in the January 27, 2026 opinion that it contends would have been different had both letters been received simultaneously. It has not explained any causal connection between a specific adverse ruling and an effect on the trial's outcome. The entire premise assumes a trial in which Corey testified, and that trial did not occur. The manifest denial of justice that warrants relief under Rule 3:20-1 must be established by the record. Dolson, 55 N.J. at 6-7. The record here does not support that showing.

III. CONCLUSION

The court received sequential written submissions from both parties, and that procedure departed from the preferred practice of Rule 1:2-1 and Code of Judicial Conduct Rule 3.8. The court acknowledges that departure without reservation. A more transparent procedure would have been preferable. That acknowledgment does not, however, warrant the relief the defense seeks.

The record does not establish a manifest denial of justice under Rule 3:20-1. The January 27, 2026 opinion governed no evidence the jury received, because

Corey did not testify and no admissibility ruling from that opinion was applied to any fact the jury heard. As discussed in Point I of this opinion, the only Corey ruling the court made on January 12, 2026 favored the defense. The connection between the written submissions and any injustice in the verdict is not demonstrated.

The timing asymmetry the defense identifies was created by the defense's own initial election to remain silent, which was fully corrected before any ruling issued, and was, moreover, an asymmetry that ran in the defense's favor: the State never reviewed the defense's twenty-four-page letter during trial, while the defense knew the general content of the State's letter from the January 23, 2026 conference. Both parties consented to the submission process, the defense in express terms at the January 12, 2026 sidebar and through the language of its own letter, and the disclosure which followed satisfied Dubov's obligation because it preceded every ruling by seven days and was accompanied by a full conference at which each side argued each contested item on the merits. The January 27, 2026 opinion itself placed the contents of both submissions on the record by recounting both parties' arguments with respect to all sixteen categories of evidence. The defense acknowledged in its own brief that formal remedies were available after January 20, 2026, and pursued none of them during six weeks of trial. The written submission process, considered against all of these circumstances, does not produce the pervading sense of wrongness that defines a miscarriage of justice under Risko, Dolson, and Kulbacki.

Defendant's motion for a new trial on the basis of the written submissions is denied.

POINT IV CUMULATIVE ERROR

I. ARGUMENTS

The defense argues the State's presentation of the case "blurred the lines between facts properly before the jury." Def.'s Br. Mot. for New Trial 46. The defense claims that even if each of the alleged errors alone did not violate defendant's constitutional rights, the errors in the aggregate denied defendant a fair trial. The State, on the other hand, maintains the individual alleged errors alone do not rise to the level of reversible error and thus cannot constitute cumulative error warranting new trial.

II. LEGAL STANDARD

The proper administration of criminal justice in a democratic society demands that justice reside not only in the outcome, but also equally in the methods by which that outcome is achieved. State v. Orrechio, 16 N.J. 125, 129 (1954). An accused person, "no matter how abhorrent the offense charged nor how seemingly evident the guilt," retains the right to a fair trial, conducted in accordance with those substantive and procedural protections, which, over centuries, have served as enduring safeguards of liberty in our country. Ibid. This principle does not suggest that every incidental legal error that occurs during a trial, particularly those that neither prejudice the rights of the accused nor make the proceedings unfair, may be invoked upon to disturb an otherwise valid conviction. Ibid. To hold otherwise would work a manifest injustice upon the State and its citizens. Ibid.

A defendant is not entitled to a perfect trial but is entitled to a fair one. Wakefield, 190 N.J. at 537 (quoting Lutwak v. United States, 334 U.S. 604, 619 (1953)). A cumulative error analysis does not "simply entail counting mistakes, because even a large number of errors, if inconsequential, may not operate to create an injustice." State v. Burney, 255 N.J. 1, 29 (2023) (quoting Pellicer v. Saint Barnabas Hosp., 200 N.J. 22, 55 (2009)). As reiterated in Wakefield, "the predicate for relief for cumulative error must be that the probable effect of the cumulative error was to render the underlying trial unfair." 190 N.J. at 538.

III. ANALYSIS & CONCLUSION

Defense counsel has made several assertions of trial error. After careful review of every assertion, as detailed above, no appreciable error is discerned by the court. The court finds that if there were any improprieties, such improprieties were subsequently cured through court-intervention, curative jury instructions, and/or the final jury charge. Witte, 13 N.J. at 611. The court finds defendant's trial was fair. Thus, the court rejects the defense's claim of cumulative error.

POINT V: THE JURY'S VERDICT

I. ARGUMENTS

A) The Defense

The defense argues that the evidence in this case was not sufficient to find defendant stole or misappropriated funds in an amount of $75,000 or more. The defense notes that the State conceded this fact in the following three statements:

> [H]e got caught stealing somewhere probably under $75,000 . . .
>
> We're going to ask you to find between $75,000 and $500 . . . Not above $75,000.
>
> When I submit you find Mr. Caneiro guilty of theft, there's over $75,000 and then there's $500 to $75,000. Conservatively, there's no doubt. We will ask you to find in that range.
>
> [Def.'s Br. Mot. for New Trial 47 (internal quotations omitted).]

The defense also points out that the State's PowerPoint slide used in summation confirmed the theft was slightly under $75,000. The defense argues that the jury found defendant guilty of stealing the highest value range and that this demonstrates the jury's animus toward defendant.

B) The State

The State sets forth that courts do not disturb jury verdicts simply because it may have found otherwise upon the same evidence. State v. Johnson, 203 N.J. Super. 127, 134 (App. Div. 1985). Furthermore, the State points out it is entitled to all reasonable inferences from the proof, and the court must give deference to the

jury's assessment of witness credibility. That being said, the State argues the jury was properly instructed by the court on the law in regard to Counts 13 and 14 and, based on sufficient evidence, found defendant was guilty of theft and misapplication of entrusted property at the value of $75,000 or more. The State contends the jury heard testimony from Detective Bassinder, who was presented as an expert witness in the field of forensic accounting, which demonstrated defendant stole a total of $78,180 from the TD Bank Trust Account. The State notes that the $78,180 was also summarized in Exhibit S-40(a), which is a summary chart of all defendant's sources of revenue in 2017 and 2018.

The State argues that even though defendant paid to $19,800 Canada Life, that does not negate the intent he had at the time the money was taken, which was to permanently deprive the Trust of funds. Further, even if the $19,800 is treated as a repayment, that does not mean that amount is subtracted from the $78,180 that was misapplied. As such, the State concludes that there was sufficient evidence for the jury to find that defendant was guilty of theft and misapplication of entrusted property at the value of $75,000 or more.

II. LEGAL STANDARD

A jury verdict "will not be set aside as against the weight of the evidence except where it is clearly the result of mistake, passion, prejudice or partiality." State v. Cordasco, 2 N.J. 189, 204 (1949); see also Doe v. Arts, 360 N.J. Super. 492, 502–

03 (App. Div. 2003) (holding "[a] jury verdict, from the weight of the evidence standpoint, is impregnable unless so distorted and wrong, in the objective and articulated view of a judge, as to manifest with utmost certainty a plain miscarriage of justice" (internal citations omitted)). A jury holds the responsibility of determining whether the accused is guilty beyond a reasonable doubt. Johnson, 203 N.J. Super. at 134. A court should not set aside a jury verdict simply because it might have found differently upon the same evidence. Ibid. (citing State v. Hodgson, 44 N.J. 151, 162–63 (1965)). When there is reason to conclude the guilt of a defendant has been proven within the confines of the rules, the verdict must stand. State v. Haines, 20 N.J. 438, 447 (1956).

III. ANALYSIS & CONCLUSION

The court finds the jury's verdict did not go against the weight of the evidence and therefore, it shall not be disturbed. Haines, 20 N.J. at 447. Detective Bassinder testified on January 13, 2026, and January 14, 2026, as an expert in the field of forensic accounting. Detective Bassinder identified that in 2017 a total of $33,680 was deposited into accounts in defendant's name or in joint accounts including defendant's name. CourtSmart at 10:58:29 a.m. to 10:59:29 a.m. (Jan. 13, 2026),[39] Caneiro, (No. 18-4915). Namely, those accounts were defendant's account ending in 3837, defendant and Susan Caneiro's account ending in 3760, and Katelyn and

[39] See App. to Court's Op. Citation Thirty-Two, Thirty-Three, and Thirty-Four.

defendant's account ending in 3886. CourtSmart at 10:58:29 a.m. to 10:59:29 a.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).[40] Detective Bassinder testified that all of those deposits came from the Keith Caneiro Irrevocable Trust Agreement account ending in 5465. CourtSmart at 10:58:29 a.m. to 10:59:29 a.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).[41] Detective Bassinder then testified that in 2018 defendant received $44,500 from the Keith Caneiro Irrevocable Trust Agreement account. CourtSmart at 10:59:29 a.m. to 10:59:41 a.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).[42] Both the 2017 and 2018 amounts were also reflected in Exhibits S-40a and S-40b, which are charts displaying defendant's financial activity in those years, and were shown to the jury and moved into evidence. Thus, it was presented to the jury through Detective Bassinder's testimony and through exhibits that defendant stole or misappropriated a total of $78,180 from the Keith Caneiro Irrevocable Trust Agreement account.

The court is not in the position to weigh the credibility of expert witness Detective Bassinder, that is the function of the jury. Johnson, 203 N.J. Super. at 134. The jury's verdict indicated that it found Detective Bassinder's testimony credible, and the court will not disturb the verdict of the jury, even if the State only asked the jury to find between $500 to $75,000. The jury is under no obligation to accept the

[40] See App. to Court's Op. Citation Thirty-Two, Thirty-Three, and Thirty-Four.
[41] See App. to Court's Op. Citation Thirty-Two, Thirty-Three, and Thirty-Four.
[42] See App. to Court's Op. Citation Thirty-Five.

State's theory or suggestion, and this was made clear to the jury in the court's final charge:

> Regardless of what counsel said or I may have said recalling the evidence in this case, it is your recollection of the evidence that should guide you as judges of the facts. Arguments, statements, remarks, openings and summations of counsel are not evidence and must not be treated as evidence. Although the attorneys may point out what they think important in this case, you must rely solely upon your understanding and recollection of the evidence that was admitted during the trial.
>
> [Final Jury Charge 5, (Feb. 12, 2026), Caneiro, (No. 18-4915).]

It is presumed that the jury will follow the instructions given to them. Loftin, 146 N.J. at 390; Feaster, 156 N.J. at 65; Curcio, 23 N.J. at 528. Accordingly, the court finds that Detective Bassinder's testimony, as well as Exhibits S-40a and S-40b, constitute sufficient evidence for the jury to find that defendant was guilty of theft and misapplication of entrusted property at the value of $75,000 or more.

OVERARCHING CONCLUSION

The court finds defendant received a fair trial before an impartial jury and a neutral court. First, the court concludes that it did not denigrate defense counsel. The court's actions were responsive to defense counsel's missteps and conduct which exceeded the bounds of the law. Defense counsel's examples which occurred either at sidebar or outside the presence of the jury have no bearing on the question of the jury's impartiality. The alleged sua sponte objections were simply representative of the court enforcing the New Jersey Rules of Evidence and were largely not "sua sponte." Additionally, the court finds it did not exhibit any hostility toward defense counsel, nor did it harbor any hostility toward defense counsel. Nevertheless, the court entertained defendant's argument arguendo and finds even if negative emotions were to have been exhibited, the jury could not have apprehended them.

Second, the court finds the State's summation was proper. The defense alleged improper comments by the State which were not objected to in the moment. Even still, the court finds such statements were proper and were: (1) sufficiently grounded in evidence; (2) a reasonable inference based on the evidence; (3) a proper response to or rebuttal of the defense's theories; and/or (4) rhetorical excess. All these actions are well within a prosecutor's broad summation latitude. Additionally, the court finds its overruling of defense counsel's three objections during the State's

summation proper. Further, the court finds its curative instructions and the final jury charge rectified any jury misconception which could have stemmed from the State's comment regarding what could not be elicited from witnesses.

Third, the court finds defendant suffered no prejudice from the ex parte submission procedure employed. The January 27, 2026 opinion did not govern any evidence presented to the jury, as Corey did not testify and no related ruling was applied at trial. Any deviation from standard procedure was subsequently neutralized by disclosure and oral argument during the January 23, 2026 conference. The record, viewed as a whole, does not demonstrate prejudice or a miscarriage of justice under the governing standards.

Fourth, the analyses of Points I, II, and III all demonstrate there was no individual error which prejudiced the defendant. Thus, there is no cumulative error.

Fifth, there was sufficient evidence for jury to find defendant was guilty of theft and misapplication of entrusted property at the value of $75,000 or more. The jury was not obligated to accept the State's suggestion it find a value between $75,000 and $500. Thus, the jury's verdict does not go against the weight of the evidence.

Under the applicable standard set out by Rule 3:20-1 there has been no manifest denial of justice under the law demonstrated through clear and convincing evidence. At every turn, this defendant was given a fair trial, and the jury rendered

a verdict of guilty solely based on the evidence. Accordingly, defendant's motion for new trial is **DENIED**.

APPENDIX

NON-CERTIFIED, UNOFFICIAL TRANSCRIPT PREPARED BY THE COURT

Citation One:

> The court: Ladies and gentlemen, do you remember how I said on Friday that sometimes I have to be a gatekeeper and make certain decisions? Even though there was not an objection there, the court had concerns before any more answers were going to come out. That is the reason why that we just went to sidebar … I'm going to sustain my own objection, and that question that was just asked, I want you to use that little pencil, the number two pencil, and I want you to erase that question out of your head. Counsel, go ahead.
>
> [CourtSmart at 2:47:11 p.m. to 2:47:43 p.m. (Jan. 12, 2026), State v. Caneiro, (No. 18-4915).]

Citation Two:

> Mr. Murray: I just want to stop you so we are clear. You know that the insurance company will accept a check from [defendant] from any account because he's the trustee. But you don't know if [defendant] has access to documents in possession of the bank related to the bank account?
>
> Detective Bassinder: I'll address the first part. Canada Life accepted checks from [defendant] because I have evidence to prove that they accepted it. You put it in as an exhibit. I have it in my report. They accepted those two checks in 2017. When someone's listed as the trustee, the financial institution is going to deal with them and accept his check. With regard to having his name on the TD Bank account, it was set up to collect the premiums to pay to Canada Life. The individual, the signer on the account, [defendant's] the trustee, the signer, he would have access

to the bank statements. Does that mean a bank is giving you copies of everything they have in their file? Every bank has their own policy and procedure for how they handle that. Was [defendant] the one that physically handed that policy or physically faxed it? If he wasn't the one who physically faxed it, if it was another person who faxed it – did [defendant] or did Keith give that person who faxed it those documents? I don't know who gave him the documents to fax. That was, how many years ago? So I do not know, and I can't say for certain, if TD Bank is going to give the defendant, or anyone who's listed as the trustee, all the documents they get to open up the account.

Mr. Murray: Okay.

Detective Bassinder: You'll get the statements —

Mr. Murray: So that was a lot of — that was a lot of maybes, right? But —

Detective Bassinder: But it's the truth.

Mr. Murray: Another maybe is maybe whoever faxed that to TD Bank knowing [defendant] was the trustee didn't want to include that beneficiary information in the trust document that they were sending.

Detective Bassinder: I wouldn't know that.

Mr. Murray : Because maybe they didn't want [defendant] to see that he was a potential beneficiary.

The court: Aren't we speculating to someone who has seen that? I'll say it. Speculation, sustained.

[CourtSmart at 4:04:07 p.m. to 4:06:55 p.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).]

Citation Three:

> Ms. Mastellone: So the three of you, and then there's another officer unidentified. You were having a conversation about the circumstances of the fire, correct?
>
> Officer Marino: Well, right above that we were talking about [inaudible] something along the lines of—
>
> Ms. Wallace: Objection.
>
> Ms. Mastellone: I'm not trying to elicit what specific—
>
> Officer Marino: Yeah, I'm trying to—
>
> The court: Can I hear the objection?
>
> Ms. Wallace: It's hearsay. He's reading, about to read what [Officer Bones] said.
>
> The court: Sustained.
>
> Ms. Mastellone: Okay. Yeah, sir, I just wanted to see if this refreshed your memory as to, just like a more broad conversation about the fire.
>
> Officer Marino: It was broader because I'm also, two lines up, talking about a TV show or something.
>
> Ms. Mastellone: Okay.
>
> Officer Marino: So I don't know if that was pertinent to this right here or if there's something else because there's also [inaudible] you can see other things are being spoken about right here.
>
> Ms. Mastellone: Okay, well I'm going to direct your attention to what Officer Bones says here. Just read this one line.
>
> Officer Marino: Okay.
>
> Ms. Mastellone: He's talking about the house, correct?
>
> Ms. Wallace: Judge, I'm going to object to the hearsay.
>
> The court: Sustained.

Ms. Mastellone: The subject of the conversation is the house fire. Is that fair to say?

The court: It's still hearsay. Sustained. You're asking him what it says on there. Sustained.

Ms. Mastellone: What is the topic of the conversation that you're having with the other officers?

Ms. Wallace: Objection, your Honor.

The court: It's still sustained.

Ms. Mastellone: In reference—in referencing the fire, you say, "I think it's messy."

Officer Marino: Again, I don't know if I was speaking about the fire or if I was talking about a TV that I was talking about four lines above this. I'm not sure if I was referring to that or if I was speaking to one of these other officers or if I was speaking directly to [Officer Bones].

Ms. Mastellone: Okay, so you're saying you're unsure because a few lines above, you're mentioning a TV show. And then two lines later, Officer Bones mentioned something else—

Ms. Wallace: Objection.

Ms. Mastellone: I didn't say what the something else was.

The court: Will you just talk to me? Don't comment to each other. I have made it clear that anything that Officer Bones may be talking about and/or the topic and/or insinuating the topic is hearsay. So therefore, I'm going to sustain the objection.

[CourtSmart at 1:57:01 p.m. to 1:59:19 p.m. (Jan. 14, 2026), Caneiro, (No. 18-4915).]

Citation Four:

> [SIDEBAR ON]
>
> The court : Okay. What are you relying upon? Just so that I know.
>
> Ms. Mastellone: What do you mean what am I relying upon?
>
> The court: You're saying it was a shared location. What are you relying upon? Does she have something in her phone that you are saying that has that location or? Tell me what —
>
> Ms. Mastellone: No, this is just what she said, that she checked the location, and when she checked the location, it was at Corey's house. And she, the rest is that she was eliciting the, or asking Corey about it. But this is way after. It just shows that …
>
> The court: Ms. Mastellone, this is insane. Okay. Ladies and gentlemen, can you do me a favor? Can you go into the [jury] room? Please don't discuss the case or do any research? [Pause.] I'm going to take a break before I address this issue.
>
> [SIDEBAR OFF]
>
> [CourtSmart at 3:26:23 p.m. to 3:27:44 p.m. (Feb. 9, 2026), Caneiro, (No. 18-4915).]

Citation Five:

> The court: Due to a proffer that was provided — based upon an objection by the State, research was done on [State v. Tier, 228 N.J. 555 (2017)]. I'm not sure that State v. Tier contemplated this scenario that we are in, in this case as it related to this type of evidence. So, everybody knows what the proffer was, based upon what Ms.

> Mastellone said at sidebar. So, that's the issue that I need briefed as to where we are going. And then I'll ask everyone to be back here at 8:00 a.m., and I will come out soon thereafter and I'll hear oral argument at that time. But again, submissions to me by ten o'clock tonight, no later. If it comes in at 10:01 [p.m.] I'm not accepting it. And we'll see where we are at that point in time. Now, I'll see attorneys at sidebar, please.
>
> [CourtSmart at 4:06:28 p.m. to 4:07:42 p.m. (Feb. 9, 2026), Caneiro, (No. 18-4915).]

Citation Six and Seven:

> The court: Good morning. Please be seated.
>
> Jury: Good morning.
>
> The court: [T]hat's what I love to hear. Somebody in my staff thought that I needed a stress ball. I picked the soft one, there was soft, medium and I guess harder. So, I am going to see how I do with this. You guys can keep an eye on me and see how I'm doing, all right. I am glad you all made it back. I appreciate that.
>
> [CourtSmart at 8:31:12 a.m. to 8:31:41 a.m. (Jan. 14, 2026), Caneiro, (No. 18-4915).]

Citation Eight:

> Mr. Decker: Now one of the things that was brought up, kind of harped on, was the fact that, why would someone kill for relatively small amounts of money, right? You know, the thefts and all that kind of stuff. Why would that happen? But one of the things that Ms. Wallace told you at openings is that she said, 'we're here—Paul Caneiro is here because of the evidence, not because of the motive.' I'm going to talk about it as I go but the motive is learned later. That's not something that comes up. He's not

> suspected and arrested, et cetera, because of the motive. Lieutenant Petruzziello said it best when he said, 'we followed the evidence.' I'm a little sick of hearing about two people, which is sort of the first time today. I'm a little sick of hearing about Corey Caneiro. What did you hear about Corey Caneiro during the course of this trial? You heard he is a brother. Okay? He's the youngest brother. You heard he's bald. You heard that he was a contingent beneficiary to the Keith Caneiro Irrevocable Trust, right? Him and Paul, fifty-fifty. Now what's interesting about that is what you never heard in this courtroom, and that is that Corey Caneiro had any clue that he was a contingent beneficiary to this trust. You never heard that. He knew about the trust because, as they pointed out this morning, Keith would complain to Corey a lot about Paul and his thefts from the trust. But Corey had no idea based upon the evidence in this case that he stood to gain either fifty percent or a hundred percent of whatever was on that screen earlier.
>
> [CourtSmart at 1:56:27 p.m. to 1:58:30 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Nine:

> Mr. Decker: It's easy after seven years to say, 'You didn't do this, you didn't do that.' But it's hard to say in this case, impossible I suspect, to say that the detectives—Petruzziello, Zarrillo, Brady, Weisbrot—that they didn't follow the evidence. What did you ever hear that should have said to those guys, 'Hey, we should get Corey's financial records. Hey, we should look closer at Elisa's phone because we only looked at it for two days.' There's nothing there. We didn't get his DNA ladies and gentlemen —
>
> [CourtSmart at 2:22:23 p.m. to 2:22:58 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Ten:

> Mr. Decker: Ladies and gentlemen, what I was trying to say was that there was nothing there that made Corey Caneiro look like a suspect. You've heard nothing other than he's got a motive because he's a contingent beneficiary of a trust that was signed in 1999 when he was a lot younger.
>
> [CourtSmart at 2:23:13 p.m. to 2:23:37 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Eleven:

> Mr. Decker: We don't get someone's DNA. We don't do get DNA just because. You talk about family relationships, right? Dr. Reich, and we'll talk about him, I'm getting ahead of myself, but we'll get there. You heard from Dr. Reich about, you know, allele-sharing, and we all share DNA, and we actually share like 99.8% with family, you know. But that's just —t hat's why we look at certain places. And we know that Keith and Paul shared about 70%, 73%. But like all of a sudden Dr. Reich just throws a column on there that says 'Corey Caneiro' with a bunch of question marks. Yes, we don't have his DNA. But why should we have his DNA? You don't have Susan Caneiro's DNA, right? We don't have Katelyn's DNA. We don't have Marissa's DNA. I mean, could they have shared alleles? Yeah, of course they could because they're family. I mean, when he did the math, Jeniffer Caneiro actually shares like 38% of DNA with Paul Caneiro and they're not even family. So — I don't say that because I'm telling you that Ms. Caneiro and her daughters had anything to do with this — to be clear. I'm just saying that it's no different than Corey Caneiro. What if there was a fourth brother? You don't just ask for DNA and send it out because somebody stands to gain something that they

> don't even know about because, let's just put it in perspective what we're talking about here: the Keith Caneiro Irrevocable Trust.
>
> [CourtSmart at 2:24:40 p.m. to 2:26:13 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twelve:

> Mr. Decker: Let's just put in perspective what we're talking about here: the Keith Caneiro Irrevocable Trust. Keith dies, money goes to Jen. Jen dies, money goes to the kids, right? The kids die, as Mr. Cardenas told you, it actually goes to the grandkids if the exist, right? Because remember when this was created, the kids didn't even exist. Jen and Keith weren't even married yet. To think about all the things that actually have to happened before either Paul or Corey could ever see a dime. It wasn't designed for them, Mr. Cardenas told you that. It was designed to benefit the children. That was Keith's intent. So, it's a pretty far-fetched argument to make that we should have accused Corey of murder because he stood to gain $1.5 million that he didn't even know about.
>
> [CourtSmart at 2:26:06 p.m. to 2:27:07 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Thirteen:

> Mr. Decker: But the family photos, I mean, that may have been then. That might have even been the day before. But like, everybody's got that breaking point, right? Nobody knows what's going to trigger. There's nothing that can trigger something like this but something triggered Mr. Caneiro. I will never be able to tell you how he could kill his niece and his nephew. It certainly wasn't for $17,000 on a Tiffany card or something. Clearly. But that doesn't

> change with Mr. Caneiro. It doesn't change with Corey Caneiro. It doesn't change with God knows who else. That motive doesn't work for anyone but you hear that testimony because it is relevant—because it just happened. Let's keep that in mind. Hours before this happens, hours before Mr. Caneiro's up in his bedroom. Doesn't have any contact that night with either of his daughters and his wife. Sitting up in the bedroom with the gun. With the laser site. With the Laserlyte. Like, kind of sitting there probably stewing. Like 'you know what Keith, no more. I'm not doing your freaking chores anymore. Like, 'Yeah, I know I stole from you, but you know what? Deal with it. I'll pay you back when I feel like it.' I mean that seems to be the trigger, the reaction. There's no issue like that with Corey or anybody else. But that's not a coincidence. You know you don't get yelled at by your brother at 6:05 [p.m.]. You don't get accused of stealing by your brother at 6:05 [p.m.]. You don't shut off your camera at 1:28 [a.m.]. You don't then go down to your basement, shut off the rest of your cameras at 1:31 [a.m.]. You don't—your car doesn't just miraculously leave at 2:07 [a.m.]. It doesn't just miraculously show up in Colts Neck. And then miraculously come back at 4:08 [a.m.]. It's not a coincidence.
>
> [CourtSmart at 3:36:14 p.m. to 3:38:31 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Fourteen:

> Mr. Decker: It's not that far. There's no way that someone who just murdered four people can't get out of that basement, run across the lawn, jump in a car, and then be on this camera at that time. Like, it's not really a 'gotcha.' It just completely makes sense. It's kind of like the argument about, 'Well, you know, Zarrillo and Petruzziello told you that they had to go to Pennsylvania to talk to Corey Caneiro,' right? Because he didn't drive

> at night. That was the testimony. They drove to Pennsylvania. They met with him. Then they argue that like, 'Oh, he can't drive at night but, hey, the morning of the fire at Paul's house he can drive over to 27 Tilton fifteen minutes, twenty minutes, whatever, in the dark,' as if they're the same thing. As if driving from Pennsylvania at, you know, eight, nine, ten o'clock at night is the same thing as driving from Fair Haven to Ocean Township to help your brother. He brought him money. He took them out for bagels. That's all you have. So it's like, 'Oh, he can't drive at night,' right? He asked him to come over. That's what you have. So let's just keep that in mind when we're trying to tarnish something that has no evidence.
>
> [CourtSmart at 3:58:09 p.m. to 3:59:44 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Fifteen:

> Mr. Decker: I asked him, did you eventually watch [the footage]? And he was like, 'Yeah.' And he even saw Paul leaving [at] 2:00 a.m., Paul returning at 4:00 a.m. And I asked him because we were looking at a photo, right? I showed him the photo of Sophia and Jesse and Jennifer and Keith. And I asked him about Keith's hair. And I asked him about Paul, who's got hair. And Keith, who's bald. And then I asked him about Corey just because, why not, right? They brought up Corey, right? They want to talk about Corey. What's Corey look like? We'll talk about why that's important later. I shouldn't have to prove that to you ladies and gentlemen. He has nothing to do with this. Nothing.
>
> [CourtSmart at 8:46:26 a.m. to 8:47:05 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).]

Citation Sixteen:

> Mr. Decker: You know where [Sophia] was found up on the — going up to the second floor on the landing. She's there, her mom's a little bit below her by the basement stairs. But like she's found there dead. But she was bleeding in the kitchen. What was going on? You know when we think about that in the context of like, 'Where's Jennifer Caneiro's phone?' I'm not sure I understand why that's so important. But you have to understand the context of like, 'What was Jennifer Caneiro doing? What was she responding to?' Her husband had left the bed, right? He went to investigate why the power's out. Presumably she woke up, either when he left or like at some point she realizes the power's off, and he's gone. Maybe she gets up to look for him. Maybe not. Maybe she hears gunshots and then goes to get him. Like is she worried about her phone? Is it maybe just in her bedroom still in the rubble with the Tiffany boxes? I mean you saw that testimony. I mean they don't dig out the master bedroom because it's not anywhere near the point of origin. Cordoma told you they dug out the basement and the area of the closet, right? They dig it out — lowest, trying to find the lowest visible signs of fire. U-patterns, V-patterns, all that kind of stuff. But like, this wasn't a robbery, right? Are we trying to say it was a robbery? It wasn't a robbery. Think about it. The photo of Keith Caneiro when he's lying on his front lawn faced-down with his face in the dirt — his phone's sitting in his pocket. His wallet is sitting in his pocket, his phone is right next to him. Nobody took his phone. Nobody took his wallet. This isn't a robbery. No one took Jennifer Caneiro's phone. Could they have looked for it? For sure. For sure. If they looked back now they would have gone up to the master bedroom and they probably would have found it. Could they have gotten the phone records? Sure. But you can't search something you don't have. So I don't understand exactly why that is because think about the

> context of what was going on when she left her bedroom and what she found.
>
> [CourtSmart at 3:42:35 p.m. to 3:44:44 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Seventeen:

> Mr. Decker: There was just a lot of uncertainty, but Keith was preparing for it. He had job interviews, and he applied to Amazon, and Ben Paolucci, we heard about that, they had dinner that night and they were saying that he didn't say anything bad about Paul, but there's only certain things that we can elicit from witnesses that's actually admissible. So they had a conversation —
>
> [CourtSmart at 3:23:05 p.m. to 3:23:22 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Eighteen:

> Mr. Decker: But now they got to get the gun back in there. They got to take the barrel out. They got to know how to take the barrel out. Seargent Clayton told you it's not complicated. I — I don't have a gun, so, I don't. I've heard how you do it. You just pop the slot off and put the barrel in, take the barrel out, whatever. But they got to do that, and they got to have a reason to do that, which is very inconsistent with what we're talking about: setting someone up. And again, they'd be doing all this by that locker in that gun area, with the cleaners and all that stuff. They'd be doing it in a place where they should have been on camera. But they weren't. Because of him. He's either guilty of murder or he's the unluckiest man in the world.
>
> [CourtSmart at 10:13:40 a.m. to 10:14:22 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).]

Citation Nineteen:

> Mr. Decker: Now, obviously nobody is identifying that person, right? It's impossible. But when you look at all the other evidence, and his car that's driving on Willow Brook just a little bit earlier, and then parking, you know, out here, right? Out here past the solar panels either on that driveway or in that little, that little opening on the grass. Walks right up to this area, right? And remember, when we look out here, this is just a little patio here. And this is exactly where we find the shell casings. So he shuts off the generator, shuts off the electric. He actually doesn't even shut off the solar panels, which shows you that you kind of have to know the house, right? Because what you found out about the solar panel array is that it's not a back-up source of power. And like, I don't know. I'm no electrician, but I would have thought that the solar panel might have done something when the power goes out but it actually doesn't. And really the only people that know that are the people that were there when it was installed and the house was being built, Paul Caneiro and Keith Caneiro. So you wonder like why that wasn't shut off. Because it didn't need to be. But when you think about the evidence in this case, and I know hair is a little, it's a little fact. You know, it's just a little thing, right? But that's not Corey Caneiro. That's not Keith Caneiro [inaudible] because they're both bald. And these gloves right here — Paul Caneiro's DNA on them.
>
> [CourtSmart at 10:21:23 a.m. to 10:22:58 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).]

Citation Twenty:

> Ms. Mastellone: What I'm asking is this: on direct examination, the prosecutor asked you who else to your knowledge helped Keith with — because he wasn't a very

handy person. And you said he would call either you or Paul.

Mr. Paolucci: Correct.

Ms. Mastellone: So you did have knowledge that Keith would ask Paul to help him out with things that, that Keith wasn't able to do himself because he wasn't handy, correct?

Mr. Paolucci: Yes.

Ms. Mastellone: And this is based on firsthand knowledge?

Mr. Paolucci: Correct.

Ms. Mastellone: So, what are some of the things? Was it the pool? Was that one of them?

Mr. Paolucci: That's one of them, yeah, the pool. We changed the PVC pipes in the ground, we dug a hole and replaced the PVC pipes.

Ms. Mastellone: And like the solar panels or something like that?

Mr. Paolucci: There were some issues with the solar panels and yeah I remember that. And then there was the drainage pipe, and then there was something in Sophia's room. It was about four times. Sophia's room had some type of valves or something in there that we were working on.

[CourtSmart at 3:54:22 p.m. to 3:55:08 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-One:

Mr. Decker: Now with respect to the solar panel array, was that something that you made observations of on the date, November 24[,] [2018]?

Mr. Abraham: Yes, similar to the generator and the electrical service. I examined the solar array and its main disconnect to determine if — the state of the status of it.

Mr. Decker: And we've seen a lot of photos of that, but the disconnects were how, just to be clear, as you found it?

Mr. Abraham: I found it in the off-position.

Mr. Decker: Okay. Now did you inquire as to whether or not any first responders or fire officials actually shut it off on November 20, 2018?

Mr. Abraham: Correct.

Mr. Decker: And did they?

Mr. Abraham: Yes. I believe that they did.

Mr. Decker: Okay, so it had been shut off by first responders, in an abundance of caution I imagine, correct?

Mr. Abraham: Correct, as a part of the fire suppression response.

Mr. Decker: Now with respect to that panel, I mean, the solar panel array, the disconnect I guess — strike that. At the time of the fire, it appears it would have been on, correct?

Mr. Abraham: Yes.

Mr. Decker: Okay, and what, if any, effect would that have on backup power to 15 Willow Brook?

Mr. Abraham: So, with the disconnect being on, if they solar array was functional it would be able to provide an alternate source of power to circuits in the structure.

Mr. Decker: Okay. Was this the type of solar panel array that actually was designed to provide backup power?

Mr. Abraham: Only if the line connection was still intact, meaning if utility power was present, the solar system via its connection to the inverter can provide power to the house.

> Mr. Decker: So the solar panel would have, the way it was set up, would have needed power to the structure in order to operate?
>
> Mr. Abraham: That's correct.
>
> Mr. Decker: Okay. So if power was cut it would not be a source of backup power.
>
> Mr. Abraham: That's correct. There's an interconnection between the solar system and the house so that way when it loses primary power from the utility, the solar system isn't able to provide an alternate source of power to anything in the house.
>
> [CourtSmart at 11:40:05 a.m. to 11:42:13 a.m. (Feb. 3, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Two:

> Mr. Decker: That was a compliment.
>
> [CourtSmart at 2:14:20 p.m. to 2:14:22 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Three:

> Mr. Decker: It's like, "Stop spending Paul. Stop spending.' Like, you don't get to do all of these things and then just take your brother's money. And Keith had enough. Like yeah, Keith was emotionally cursed, right? He was pretty pissed off at Paul, we'll see it. But like, did he, did he give Paul an invitation to take his money? Let's not talk like he wasn't in financial distress. Okay? Could he have changed his ways and made it work financially? Sure. And it's almost like, are we criticizing Keith because he didn't have disability to fall back on? Like, does that make him a bad guy? Like, everybody should have

> disability and still be able to work at the family business? Because when we talk later about — I'll stop saying later it probably makes you nervous — but when we talk about Paul and all the things he stood to lose, you know, Keith doesn't have that fall back, right? Paul has the disability, right? That's what they're arguing to you. 'He's still got 200 and something thousand dollars in disability coming to him.' But like, that's not enough. It's not enough for him. He's losing out on all the income that he gets from Square One, right? And EcoStar. But the thing about Paul is, Ms. Wallace discussed it in her opening, is that he can't go get a job if Square One and EcoStar go away. Keith got an MBA from Columbia right? He was planning. That's why he was going back to school.
>
> [CourtSmart at 3:21:22 p.m. to 3:23:00 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Four:

> [SIDEBAR ON]
>
> The court: Two things. Number one, I know there was no objection to it, however, Mr. Decker, and I'm not saying that you did anything on purpose. However, you had indicated when you started talking about the surveillance camera from behind the – from the house behind and that you had to do an investigation because he didn't tell us. I just want — I think that I have to tell the jurors that he doesn't have to say anything at any point in time. Do you hear me?[1] He doesn't have to say anything to law enforcement as it relates to that. I just want to cover that on the record so that there is no issue, no burden shift as it relates to that. And he has the right to remain silent. So that's number one.

[1] At this point the court was speaking to defendant to ensure he was able to hear the sidebar through his headset.

[CourtSmart at 4:28:18 p.m. to 4:29:06 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Five:

[SIDEBAR ON]

The court: Any issues based upon what I'm going to do as it relates to the other issue?

Ms. Mastellone: Can we, can I just have an opportunity to listen to what was said? I didn't catch it in the moment and I just, I don't, I want to, if your honor could maybe do an instruction at the end as opposed to like highlighting it right now.

The court: I don't mind doing it at the end. My only concern was that I didn't want it to be left in the juror's minds. So, I don't mind doing it at the end if that's what you prefer, so you have time to think about it. But I thought that I needed to address it when they said it.

Ms. Mastellone: Do you remember exactly what was said? I'm so sorry — I just

Mr. Decker: I don't remember what I said. I think what I was saying is that—

Ms. Mastellone: In the context of the cameras?

Mr. Decker: We had to investigate the cameras because he didn't tell us that he left in the middle of the night. Something like that.

The court: Correct. That's what he said.

Ms. Mastellone: Oh yeah, so I remember that now. And I assumed you meant when he spoke to officers on scene initially.

Mr. Decker: Yeah, I mean, that's my point. I have no problem with the court saying that. I think my point was

> that he did choose to speak and he did choose to say that he was asleep all night, so that is inconsistent.
>
> The court: I understand what you're saying. If you[2] strategically don't want me to say anything, I won't.
>
> Ms. Mastellone: I think at the end it's a good reminder. Like, if, you know, maybe I can think of it overnight about how to craft it so it's just a general —
>
> The court: Fine with me. I just didn't want me to not flag something that I heard.
>
> Ms. Mastellone: I appreciate it.
>
> [CourtSmart at 4:29:41 p.m. to 4:31:12 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Six:

> Mr. Decker: You still never know how you're going to react after something like that. I mean, none of us know.
>
> [CourtSmart at 2:15:55 p.m. to 2:16:03 p.m. (Feb. 11, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Seven:

> Mr. Decker: There's one pair of jeans, there's one pair of jeans. Obviously look at the tearing on these jeans. I mean, there's a portion of these jeans that are missing; we talked about it yesterday. This is what's in the bag[3] because that bag was sent to the state police department, too. I mean, they saw that. They didn't say, 'These are

[2] Referencing Ms. Mastellone.

[3] At this point Mr. Decker was holding up S-232 to the jury, which was the bag containing the jeans.

> different jeans. Let's test them both.' They saw that they were one pair of jeans.
>
> [CourtSmart at 9:58:56 a.m. to 9:59:18 a.m. (Feb. 12, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Eight:

> [SIDEBAR ON]
>
> The court: I understand that but what you're doing is, is that you're implying that there is somebody else that has that. And you're putting it into a box, and you're trying to connect it to Corey, and I don't know if there's information at this point that assists me with that. So, if we're going to go down — remember how I said before the trial started that — if we're going to go down a certain path, that it would be a good idea to provide the court with law in advance so that I would have a good understanding of where we were going? So far I have not received that from the defense. I had a feeling that this was your opening today and this was your plan, but I have no idea. And I'll never hold you to anything. You don't have to do anything. But we're here now. I would suggest that you guys give me something so that I have more of a basis to know where you're going. And, again, I'm not going to take your strategy away. You can send it to me privately. They don't have to see it. But I at least have to know where you're going. I have no idea.
>
> [CourtSmart at 4:20:15 p.m. to 4:21:16 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).]

Citation Twenty-Nine:

> [SIDEBAR ON]

> Ms. Mastellone: Sure, Judge. I was going to supply something before Corey Caneiro testified because if there was anyone I was going to ask any of those types of questions to it would be him.
>
> The court: But see that's my point. You can ask Corey all of this. This is the same thing I said to Mr. Murray. You guys are trying to get stuff out now that I don't know if these people are the right people to be asking based on what we have. Listen, I don't want to continue on. You asked that question, I'll let him answer it.
>
> [CourtSmart at 4:21:16 p.m. to 4:21:44 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).]

Citation Thirty:

> [SIDEBAR ON]
>
> The court: And I'll never hold you to anything. You don't have to do anything.
>
> [CourtSmart at 4:20:57 p.m. to 4:20:59 (Jan. 12, 2026), Caneiro, (No. 18-4915).]

Citation Thirty-One:

> [SIDEBAR ON]
>
> The court: You need a basis to ask these questions. What is your basis? What rule are you relying upon to ask that question?
>
> Ms. Mastellone: There are family members in the Caneiro family that have exhibited tendencies of violence. Is that what your Honor is asking me?
>
> The court: I don't know. I'm asking you what it is because no one has told me that.

[CourtSmart at 4:16:59 p.m. to 4:17:20 p.m. (Jan. 12, 2026), Caneiro, (No. 18-4915).]

Citation Thirty-Two, Thirty-Three, and Thirty-Four:

Ms. Wallace: Explain to us what we're looking at in your summary chart for 2017 and [2018] please.

Detective Bassinder: In 2017, a total of 33,680 dollars was deposited into accounts in the defendant's name or joint accounts in the defendant's name.

Ms. Wallace: From where?

Detective Bassinder: These were deposited into account 2: Paul Caneiro ending in 3837. The joint account, number 3: Paul Caneiro [and] Susan Caneiro ending in 3760. And account number 5: Katelyn Caneiro and Paul Caneiro ending in 3886.

Ms. Wallace: Okay, but just to be clear the 33,680 dollars that came from where?

Detective Bassinder: It came from — the account number 1, ending in 5465: The Keith Caneiro Irrevocable Trust Agreement, dated 7/27/99.

[CourtSmart at 10:58:28 a.m. to 10:59:29 a.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).]

Citation Thirty-Five:

Ms. Wallace: And how about 2018? How much revenue did the defendant receive from that TD Trust account?

Detective Bassinder: 44,500 dollars.

[CourtSmart at 10:59:29 a.m. to 10:59:38 a.m. (Jan. 13, 2026), Caneiro, (No. 18-4915).]