

## SUPREME COURT PENDING CASES

*The following appeals are fully briefed and eligible for assignment by the Supreme Court in the near future.*

STATE *v.* JUAN A. G.P., , SC 20164  
*Judicial District of Danbury*

**Criminal; Whether Trial Court Erred by Denying Defendant Right to Cross-Examine Witnesses’ on Pending U-Visa Applications; Whether Trial Court’s Instruction on “Evidence of Intent” Misled Jurors; Whether Trial Court Erred by Failing to Instruct Jurors to Consider Each Count Separately and Independently; Whether Trial Court Erred by Finding Psychiatric Records of Minor Victims Not Exculpatory and Therefore Not Subject to Disclosure.** The defendant was convicted of aggravated sexual assault of a minor, and risk of injury of a minor arising out of various incidents involving the defendant and Jane Doe 1, the defendant’s stepdaughter, and Jane Doe 2, the step-niece. The defendant appeals from his conviction directly to the Supreme Court pursuant to General Statutes § 51-199 (b) (3). The defendant first claims on appeal that the trial court violated his constitutional right to confrontation because it improperly precluded him from questioning two of the state’s witnesses, the victims’ mothers, about their U Visa applications. This type of visa permits certain crime victims and their parents, if the victims are minors, to remain in the United States as lawful temporary residents to assist with the investigation and prosecution of a crime. As part of an offer of proof, the defendant was allowed to question the mothers about when and how they learned of the U Visa program and who was helping them with their applications. Both women testified that they learned about the U Visa program through the Women’s Center, an organization that they became involved with after their daughters disclosed the assaults. The defendant argues that the court committed harmful error when it prevented him from introducing this testimony to the jury in order to challenge the mothers’ credibility by examining their possible motive and bias in testifying against him. The defendant next claims on appeal that the trial court erred when it instructed the jurors that if evidence was subject to two different interpretations, they were “not required to accept the interpretation consistent with innocence.” The defendant argues that, by giving this instruction, the court violated his right not to be convicted unless the state proved all the elements of the crime beyond a reasonable doubt. The defendant’s third claim on appeal is that the trial court misled the jurors by failing to instruct that each count must be considered separately and independently and

that a verdict reached on one count did not control the verdict on any other count. The defendant argues that such an instruction was vital when there were multiple charges based upon two complainants who claimed they were abused at the same time so as to protect the defendant's constitutional rights that the jurors were unanimous in their verdict and to hold the state to its burden of proving every element of each count. The defendant's final claim on appeal is that the trial court erred when, after it conducted an in camera review of the psychiatric records of the two victims, it concluded that they contained no exculpatory information and refused to disclose the records to the defendant. The defendant argues that, because the credibility of the two victims was crucial to the state's case, if there were documents that could have been used to impeach their credibility, it could have changed the outcome of the trial.

**The Practice Book Section 70-9 (a) presumption in favor of coverage by cameras and electronic media does not apply to the above case.**

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STATE *v.* PATRICK M., SC 20476  
*Judicial District of New Britain*

**Criminal; Whether State Presented Insufficient Evidence at Defendant's Murder Trial to Establish His Identity as Shooter; Whether Prosecutor Improperly Commented on Defendant's Post-Miranda Silence.** The defendant and his friend, Daniel Thomas, were partners in an illegal drug selling enterprise. On April 7, 2017, the defendant drove a gray Chevy Malibu. The defendant's neighbor called 911 that evening to report a disturbance in the defendant's apartment. When the police entered the apartment, they found the body of the defendant's wife, Y.M., who had been shot multiple times. The police subsequently obtained video surveillance footage from a nearby gas station, which showed what appeared to be a gray Chevy leaving the area shortly after the incident. The defendant was charged with murder. At trial, the state presented evidence that the defendant had told Y.M.'s mother that he was going to kill her daughter less than three weeks before the murder. The defendant testified in his defense that he had driven the gray Chevy earlier on the day of the murder but that he had later switched to a blue Acura. He further testified that he found Y.M. dead in the bedroom and that \$83,000 in cash was missing when he entered his apartment. The defendant also asserted a third-party culpability claim against Thomas. During closing argument, the prosecutor made comments to the effect (1) that the defend-

ant's exculpatory version of the events, namely, that Y.M.'s murder may have been the result of a robbery, was offered "for the first time" at trial and (2) that the police probably would have changed their investigative tactics if they had been informed about the "large quantity" of missing "drug money" closer to "the time of the crime." The jury returned a guilty verdict. After the verdict, the defendant filed a motion for a new trial, contending that, during closing argument, the prosecutor improperly used the defendant's silence after being arrested and advised of his right to remain silent under *Miranda v. Arizona*, 384 U.S. 436 (1966), for impeachment purposes and substantive evidence in violation of *Doyle v. Ohio*, 426 U.S. 610 (1976). He also contended that the prosecutor's comments impermissibly shifted the burden on him to prove his innocence in violation of *In re Winship*, 397 U.S. 358 (1970). The trial court denied the motion for a new trial, ruling that the prosecutor's arguments were not an improper comment on the defendant's "post-arrest silence" but rather a permissible comment on the defendant's "pre-arrest silence." The defendant appeals directly from his conviction to the Supreme Court pursuant to General Statutes § 51-199 (b) (3). The defendant claims that the state's evidence was insufficient to establish the essential element of the crime of murder, namely, the defendant's identity as the shooter. He argues that, in the absence of direct physical or eyewitness evidence, the jury had to resort to speculation and conjecture to conclude that he committed the murder. In addition, he claims that the prosecutor improperly commented on his post-*Miranda* silence and impermissibly shifted the burden of proof to him during closing argument. Alternatively, the defendant claims that, to the extent the prosecutor's comments did not violate *Doyle*, they nonetheless constituted prosecutorial impropriety because they shifted the burden to prove innocence to him by alluding that he should have immediately provided exculpatory information to the police.

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KATIE N. CONROY *v.* AMMAR A. IDLIBI, SC 20598  
*Judicial District of New Britain*

**Dissolution; Fraud; Evidentiary Hearing; Whether Appellate Court Correctly Concluded That Trial Court Did Not Abuse Its Discretion When It Denied Defendant's Motion to Open Judgment Based on Allegations of Fraud.** In the underlying dissolution proceeding, the dissolution court had concluded that neither party was more at fault for the breakdown of the marriage. That court found that the plaintiff had engaged in an affair but that there was no direct

evidence that it had been sexual in nature. The defendant filed an appeal from the dissolution judgment, claiming that the dissolution court had erred by finding that neither party bore greater responsibility for the breakdown of the marriage and by making financial awards that were favorable to the plaintiff. The Appellate Court affirmed the judgment of the dissolution court in *Conroy v. Idlibi*, 183 Conn. App. 460, cert denied, 330 Conn. 921 (2018). Subsequent to the disposition of the defendant's appeal from the dissolution judgment, the defendant filed a motion to open the judgment on the basis of fraud. The defendant claimed that the plaintiff had committed a fraud on the dissolution court because she misrepresented the nature of her extramarital relationship and her allegations of physical abuse by the defendant. More specifically, the defendant asserted that he had recently obtained the plaintiff's cell phone records, which revealed the plaintiff's admission to engaging in a sexual relationship with another man while married to the defendant. The defendant argued that this was clear proof of perjury and fraud by the plaintiff and sought a preliminary hearing to demonstrate probable cause so that he could conduct further discovery. Following a hearing, the trial court found that the dissolution court was aware of the defendant's claims regarding the plaintiff's alleged misrepresentations when the dissolution court held that neither party was more at fault for the breakdown of the marriage. The trial court concluded that there was not a substantial likelihood that the result of a new trial would be different and denied the motion to open. The defendant appealed, arguing that the trial court abused its discretion by denying him the opportunity to prove that the plaintiff had committed a fraud on the dissolution court. The Appellate Court (204 Conn. App. 265) affirmed the trial court's conclusion that there was not a substantial likelihood that the outcome of a new trial would be different because the dissolution court was aware of the defendant's claims that the plaintiff had misrepresented the nature of her extramarital relationship and that the injuries the plaintiff claimed were caused by the defendant were actually self-inflicted. The defendant was granted certification to appeal, and the Supreme Court will decide if the Appellate Court correctly concluded that the trial court did not abuse its discretion when, without holding an evidentiary hearing, it denied the motion to open the judgement based on allegations of fraud.

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JANE C. DOWLING *v.* HEIRS OF NORMAN J. BOND ET AL., SC 20665  
*Judicial District of New London*

**Property; Whether Adverse Possession Claim Was Decided  
under Proper Standard; Whether Trial Court Erred in Finding**

**that Plaintiff's Predecessors Did Not Convey Disputed Parcel; Whether Adverse Possession Claim Was Barred by Marketable Record Title Act; Whether Proof of Pecuniary Damages Is Required to Prevail on Statutory Slander of Title Claim; Whether Trial Court Properly Found that Plaintiff Slandered Defendant's Title and Properly Rejected Her Advice of Counsel Defense; Whether Defendant Entitled to Attorney's Fees and Costs.** The plaintiff recorded a notice of claim on the East Lyme land records claiming title by adverse possession of a forty foot wide parcel of land (parcel) immediately to the east of her property. Thereafter, the plaintiff commenced the present action to quiet title to the parcel, claiming that her predecessors in title acquired fee title to the parcel by adverse possession and that she now holds sole and exclusive fee title to the parcel. She identified the defendant, the Old Black Point Association, Inc., as an entity that may claim an ownership interest in the parcel. The defendant filed a two-count counterclaim. In count one, the defendant sought to quiet title in the fee of the parcel to itself, asserting a marketable record title pursuant to General Statutes § 47-33b. In count two, the defendant alleged that the plaintiff filed her notice of claim to the fee of the parcel with a reckless disregard for its truth and for the purpose of slandering the defendant's title. Following a bench trial, the trial court issued a decision determining that the plaintiff did not prove adverse possession of the parcel and that the plaintiff's adverse possession claim was barred by the Marketable Record Title Act (MRTA), General Statutes § 47-33b et seq., as to at least seven eighths of the parcel. Accordingly, the court rendered judgment for the defendant on the plaintiff's complaint. The court also found in favor of the defendant on both counts of its counterclaim, and it awarded the "costs of the action," including attorney's fees incurred in defending the plaintiff's quiet title action, as damages on the slander of title count pursuant to General Statutes § 47-33j. The plaintiff then appealed to the Appellate Court. Upon motion of the defendant pursuant to Practice Book § 65-2, the appeal was transferred to the Supreme Court. The plaintiff claims on appeal that the trial court erred in (1) using too high a standard to decide her adverse possession claim, (2) finding that her predecessors did not convey the parcel at issue, (3) concluding that her adverse possession claim is barred by the MRTA as to at least seven eighths of the parcel where, according to the plaintiff, "the root of title to the fee did not arise before 1976," (4) rendering judgment in favor of the defendant on its statutory slander of title counterclaim without requiring the defendant to prove pecuniary damages, (5) finding that the plaintiff slandered

the defendant's title to the parcel by filing the adverse possession notice and in rejecting the plaintiff's advice of counsel defense, and (6) awarding the defendant, as the prevailing party on its statutory slander of title counterclaim, attorney's fees and costs for defending the plaintiff's quiet title action.

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*The summaries appearing here are not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. These summaries are prepared by the Staff Attorneys' Office for the convenience of the bar. They in no way indicate the Supreme Court's view of the factual or legal aspects of the appeal.*

*Jessie Opinion  
Chief Staff Attorney*

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