

# The Appellate Advocate:

## A Recap of Recent Decisions by NJ's Appellate Courts



### **State v. Ramadan** **A-0345-24**

Courtroom films often provide a good example of what does NOT happen in a courtroom. Hostile witnesses rarely admit to having ordered “the Code Red.” But even then, Colonel Jessup only admitted to having issued an order. He still stopped short of saying he wanted Private Santiago to suffer injury resulting in death. Even in *A Few Good Men*, with its over-the-top “confession” on the witness stand, the court is left without direct evidence on mens rea. That’s because it’s very hard to get a *A Few Good Men* Mens Rea direct evidence (had to do it). And that is exactly what happened in this case.

The underlying incident was disturbing. In late 2021, Mohammad Ramadan, a familiar face at the Levine Law Firm where he worked as an IT contractor, allegedly attacked 79-year-old Ira Levine, causing serious head trauma and lasting cognitive issues. Ramadan left abruptly, did no computer work, and later sent a series of panicked messages (e.g., “Dear God, what have I done”) raising immediate suspicion.

Seems like damning evidence of attempted murder. Unsurprisingly, Ramadan was indicted on that charge. But the attempted-murder case was never presented to the jury. Ramadan moved to dismiss the charge, the trial court denied his motion, and Ramadan filed an interlocutory appeal—where he ultimately prevailed.

The Appellate Division’s reversal had little to do with guilt or innocence, and everything to do with how the law was communicated to the grand jury. The assistant prosecutor, according to the panel, repeatedly misstated the required mental state for attempted murder, suggesting jurors could indict if they believed Ramadan had attempted to cause “serious bodily injury resulting in death.”

That standard—while valid for completed homicide under New Jersey law (N.J.S.A. 2C:11-3)—is legally inapplicable to attempted murder, which demands that prosecutors establish the specific intent to cause death. This isn’t a technicality. It’s a fundamental legal distinction with constitutional implications, especially in a case involving a first-degree charge that carries decades of potential prison time.

The appellate panel, led by Judge Torregrossa-O'Connor, was unsparing in its assessment. While acknowledging that the prosecutor also recited the correct standard at times, the judges emphasized that jurors are not legal scholars, and repeated contradictory statements likely created lasting confusion. "The grand jury could have misunderstood the correct instructions as merely applicable to what it was incorrectly told was an alternative pathway of proving attempted murder," the court wrote, adding that jury confusion was evident when jurors asked for the law to be reread and focused heavily on the severity of the victim's injuries.

The court also rejected the trial judge's reasoning that multiple correct statements cured the error. "When assessing the impact of an incorrect instruction . . . ours is a qualitative, not a quantitative, analysis," the court wrote, drawing on precedent from *State v. Gilliam*, a case where an almost identical misstatement in jury instructions resulted in a reversed conviction. The opinion made clear that even if misstatements were brief, their presence during grand jury deliberation struck at the very legitimacy of the indictment process.

Adding another layer, the opinion flagged the prosecutor's handling of a juror's question about Ramadan's past behavior. The prosecutor said there was no record of prior bizarre or aggressive behavior—despite earlier statements to investigators from a witness describing Ramadan as "bizarre" and "disheveled," even likening him to someone who looked like he had "been dropped out of a spaceship." While the court didn't rule on whether this omission independently warranted dismissal, it noted the broader pattern of failures that "undermined the grand jury's ability to deliberate lawfully."

For this specific case, the attempted murder charge is dismissed, but not permanently. The State may still present the case again to a new grand jury—this time with a clearer understanding of what the law requires.

For practitioners generally, this case shows the delicate balance attorneys must maintain when addressing juries. Trial attorneys strive for a relaxed precision, where the technical legal elements are all exactly addressed even if the tone never exceeds casual conversation. It is not an easy presentation, and sometimes—like here—the technical elements might get somewhat muddled. Fortunately, our system allows opportunities to cure and appeals, seemingly rowing in separate directions but all toward that same destination: to see that justice is done.

### About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



973-540-7333  
tjc@spsk.com

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