

SUPREME COURT OF THE STATE OF DELAWARE

DeAngelis v. State

No. 485, 2024 (Del. Jan. 28, 2026) · No. No. 485, 2024 · Decided January 28, 2026

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s denial of Douglas DeAngelis’s motion for a new trial. The Court held that the trial court’s response to the jury’s hypothetical question about a partial hung jury was not an Allen charge and therefore did not require application of the coercion test for Allen instructions.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	N. Christopher Griffiths; Chief Justice Seitz; Justice Valihura; Justice Griffiths
JURISDICTION	Supreme Court of the State of Delaware
DECIDED	January 28, 2026
DOCKET	No. 485, 2024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Superior Court order denying the defendant's motion for a new trial after the jury returned a partial verdict.
STANDARD OF REVIEW	Abuse of discretion applies to the grant or denial of a motion for a new trial and to the trial court's use of an Allen charge.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Douglas DeAngelis v. State of Delaware

TOPICS

- jury instructions
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- Criminal procedure
- Appellate procedure
- Jury instructions

QUESTIONS PRESENTED

1. Whether the trial court's response to the jury's hypothetical question about a partial verdict constituted an Allen charge.
2. If the response constituted an Allen charge, whether it had a coercive effect under the four-factor test articulated in *Streitfeld*.

HOLDINGS

1. The trial court's response was not an Allen charge because the jury had not reported a deadlock, the court expressly acknowledged that a partial hung jury and mistrial were permissible, and the response did not ask jurors to reconsider firmly held views or require that a verdict be returned.
2. Because the trial court's response was not an Allen charge, the Court did not apply the four-factor *Streitfeld* coercion test.

KEY QUOTATIONS

“An Allen charge is a supplemental instruction encouraging the jury to reach a verdict and amounts to a request from a trial court to the jury to attempt to come to a decision without abandoning any firmly held beliefs.” (¶ 8)

“Applying Lena’s reasoning to the present case, we find that the trial court’s response was not an Allen charge. Thus, we need not apply Streitfeld’s four-factor coercion test.” (¶ 12)

FACTUAL BACKGROUND

During deliberations, the jury sent a note asking what would happen if it reached a verdict on some charges but could not reach consensus on the others. The trial court explained that it could accept a partial verdict and declare a mistrial on unresolved counts, then asked the jury to continue deliberating and noted that a unanimous verdict would be preferable. The jury later returned a partial verdict convicting DeAngelis of fourth-degree rape and second-degree assault while remaining deadlocked on second-degree rape.

PROCEDURAL HISTORY

DeAngelis was tried in the Delaware Superior Court on charges of second-degree rape, fourth-degree rape, and second-degree assault. The jury convicted him of fourth-degree rape and second-degree assault but failed to reach a verdict on the second-degree rape charge. The Superior Court denied his motion for a new trial, and the Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Streitfeld v. State*, 369 A.2d 674, 677 (Del. 1977)
- *Smith v. State*, 341 A.3d 511 (Del. 2025)
- *Adkins v. State*, 454 A.2d 732, 734-35 (Del. 1982)

- *Waters v. State*, 242 A.3d 778, 782 (Del. 2020)
- *Collins v. State*, 56 A.3d 1012, 1019-20 (Del. 2012)
- *United States v. Lena*, 497 F. Supp. 1352, 1363 (W.D. Pa. 1980), *aff'd*, 649 F.2d 861 (3d Cir. 1981) (TABLE)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE DOUGLAS DEANGELIS, § § No. 485, 2024 Defendant Below, Appellant, § § Court Below—the Superior v. § Court of the State of Delaware § STATE OF DELAWARE, § Cr. ID No. 2302006594(N) § Appellee. § § Submitted: November 19, 2025 Decided: January 28, 2026 Before SEITZ, Chief Justice; VALIHURA, and GRIFFITHS, Justices. ORDER After careful consideration of the parties’ briefs and the record on appeal, it appears to the Court that: (1) Appellant Douglas DeAngelis appeals from a Superior Court order denying his motion for a new trial.

DeAngelis contends that the trial court’s response to a note from the jury functioned as an Allen charge that unduly coerced the jurors to reach a verdict against him. For the reasons that follow, we find that the trial court’s response to the jury’s note was not an Allen charge.

Accordingly, we affirm the Superior Court’s judgment. (2) On February 14, 2023, DeAngelis was arrested for sexually assaulting a female victim.¹ He was indicted on one count of second-degree rape, one count of fourth-degree rape, and one count of second-degree assault.² The trial spanned six days, beginning on Monday, April 15, 2024.³ The jury began its deliberations on Friday, April 19, 2024, but was unable to reach a verdict on that day.⁴ (3) The jury resumed its deliberations on Monday, April 22, 2024.⁵ The jury deliberated through the morning, sending two notes to the trial judge just before the lunch break.⁶ The first note read: In relation to Rape in the 2nd Degree: Is “sexual intercourse” inclusive of genitalia coming in contact without penetration?

The definition we received states “an act of physical union of a person’s gen[nitalia].” We are looking for clarity.⁷ Before the trial court could respond to the first note, the jury sent the second note. The second note read: IF THE JURY HAS REACHED A VERDICT ON ONE OR MORE CHARGES, BUT NOT ALL, AND IS UNABLE TO REACH CONSENSUS ON THE REMAINING, IS THE ENTIRE DECISION NULLIFIED, OR IS A PARTIAL HUNG JURY ACCEPTED?⁸ 1 App. to Opening Br. at A1 (Super.

Ct. Crim. Dkt. No. 1 [hereinafter “Dkt.”]) [hereinafter A_]. 2 A10–11 (Indictment by the Grand Jury). 3 A7 (Dkt. No. 37). 4 See generally Trial Tr.; see also Opening Br. (dated July 7, 2025) at 8. 5 A823 (Trial Tr., dated Apr. 22, 2024). 6 A824 (Trial Tr.) (the time stamp shows that the trial court had received both notes by 11:41 AM). 7 A857 (photocopy of the first note).

8 A859 (photocopy of the second note) (all caps in original). 2 (4) The trial judge discussed both notes with the attorneys before bringing the jury back into the courtroom.⁹ The court briefly responded to the first note, and then responded to the second note as follows: 10 Your second question, it says if the jury has reached a verdict on one or more charges but not all and is unable to reach consensus on the remaining, is the entire decision nullified.

Short answer no. Or is a partial hung jury accepted. Well, if we have to, it can be. What would happen in those circumstances is we would take the verdict on the counts which you were able to agree and we would take a mistrial on the counts that you were unable to agree upon. I don't know if all of this means that you're hopelessly deadlocked forever or if there was any clarity in what I just explained to you and you're ready to render full verdicts, so I don't want to belabor this point longer than necessary.

I would just ask that you go back, continue your deliberation. Lunch is on the way. And if you're able to reach a unanimous verdict, obviously that's position A for everybody, if we can. If we can't, we'll have more to talk about. Okay? Thank you. And thank you for your patience, folks. You're free to go back.¹¹ (5) A few hours later, the jury rendered a partial verdict, convicting DeAngelis of one count of fourth-degree rape and one count of second-degree assault.¹² The jury did not reach a verdict on the second-degree rape count.¹³ Following the partial verdict, DeAngelis filed a motion for a new trial claiming that 9 A824–34 (Trial Tr.

2:10–12:15). 10 The trial court's response to the jury's first note concerned only a legal definition and is irrelevant to the instant appeal. See A834–35 (Trial Tr. 13:2–14:7). 11 A836–37 (Trial Tr. 14:8–15:6). 12 A842 (the time stamp shows that the jury reentered courtroom to deliver its verdict at 1:33 PM); A842–43 (Trial Tr. 20:9–21:13). 13 Id. 3 the trial court's response to the second note was a coercive Allen charge that unduly influenced the jury's verdict.¹⁴ The Superior Court denied the motion and DeAngelis appealed.¹⁵ (6) On appeal, DeAngelis contends that the court erred in denying his motion for a new trial because the trial court's response to the jury's second note was a coercive Allen charge.¹⁶ Should we agree with DeAngelis and find that the response was an Allen charge,¹⁷ we must then examine the Allen charge against the four-factor test articulated in *Streitfeld* to determine whether it had a coercive effect on the jury.¹⁸ If we find that the response was not an Allen charge, however, our analysis ends there.¹⁹ 14 A7 (Dkt.

No. 38); see also Ex. A to Opening Br. at 4 (Order dated Aug. 27, 2024) [hereinafter Order]. 15 Order at 6; see also A8 (Dkt. No. 48). 16 Opening Br. 2. 17 Id. at 12 (DeAngelis characterizes the trial court's response to the second note as a "modified Allen charge"). 18 See *Streitfeld v. State*, 369 A.2d 674, 677 (Del. 1977) (The four factors are "the time of day when the instruction was given, the words used, the length of the deliberations both before and after the instruction, and the complexity of the case.")).

19 See e.g. *Smith v. State*, 341 A.3d 511, 2025 WL 1473872, at *2 (Del. May 22, 2025), as corrected (May 23, 2025) (TABLE) (“The trial judge’s... instruction to the jury to return to its deliberations did not amount to an Allen charge.

We therefore do not need to consider whether the charge met the four-factor coercion test applicable to Allen instructions.”); *Adkins v. State*, 454 A.2d 732, 735 (Del. 1982) (the discussion ends once the Court has concluded that “[t]he statement did not constitute an Allen ‘dynamite’ charge or require the ‘personal conscience’ admonition.”). 4 (7) We review the trial court’s grant or denial of a motion for a new trial for abuse of discretion.²⁰ We also apply the abuse of discretion standard when reviewing the trial court’s use of an Allen charge.²¹ (8) “An Allen charge is a supplemental instruction encouraging the jury to reach a verdict and amounts to a request from a trial court to the jury to attempt to come to a decision without abandoning any firmly held beliefs.”²² Not every communication from a trial court instructing the jury to continue deliberations qualifies as an Allen charge.

For example, in *Adkins v. State*, we did not view the trial court’s supplemental instruction to the jury as an Allen charge.²³ There, the *Adkins* Court reasoned as follows: The supplemental charges in *Allen* and *Brown* involved coerced reconsideration, i.e., instruction to the jurors, after they announced a deadlock, to consider one another’s views with a disposition toward being convinced....

By contrast, in the instant case, the Trial Judge did not instruct the jury to deliberate further on the Conspiracy charges as to which it had announced deadlock; his comments regarding continued deliberations were addressed solely to the Assault charges as to which deadlock had not been announced.

The Court did not expressly or implicitly request any juror to reconsider his or her views in deference to the majority; the Court’s statement did not indicate, directly or by inference, that a verdict must or should be returned....

The plain language of the Trial Court demonstrated its willingness to accede to a hung jury and, thereby, to respect the personal convictions ²⁰ *Waters v. State*, 242 A.3d 778, 782 (Del. 2020). ²¹ *Collins v. State*, 56 A.3d 1012, 1019–20 (Del. 2012). ²² *Smith*, 2025 WL 1473872, at *2 (internal quotation marks omitted). ²³ *Adkins v. State*, 454 A.2d 732 (Del. 1982).

5 of the jurors. The statement did not constitute an Allen “dynamite” charge or require the “personal conscience” admonition.²⁴ (9) Here, like in *Adkins*, the jury did not report a deadlock on the charges submitted to them. Instead, the jury’s second note posed a hypothetical question: what would happen if they could not reach a unanimous verdict?

Therefore, the trial court’s comments “regarding continued deliberations were addressed solely to... charges as to which deadlock had not been announced.”²⁵ The trial court also explicitly stated

that “we would take a mistrial on the counts that you were unable to agree upon,”²⁶ and that “if we have to, [a partial hung jury] can be [accepted].”²⁷ This statement conveyed the trial court’s “willingness to accede to a hung jury and, thereby, to respect the personal convictions of the jurors.”²⁸ (10) Still, DeAngelis asks us to distinguish the instant case from Adkins and recognize the court’s response as an Allen charge.

DeAngelis points out that, in Adkins, the court did not “indicate, directly or by inference, that a verdict must or should be returned.”²⁹ Whereas here, the court implied that a verdict should be returned by stating “if you’re able to reach a unanimous verdict, obviously that’s 24 Id. at 734–35 (citations omitted). 25 Id. at 735. 26 A836 (Trial Tr. 14:15–17).

27 Id. 28 Adkins, 454 A.2d at 735. 29 Id. 6 position A for everybody.”³⁰ DeAngelis construes the trial judge’s message—that a unanimous verdict would be “position A for everybody”—as conveying to the jury that the court preferred a verdict over a hung jury.³¹ We disagree.

(11) In *United States v. Lena*,³² the United States District Court for the Western District of Pennsylvania faced a similar situation. The jury in *Lena*, like the jury here, did not report that it was deadlocked, but instead asked “whether [the jury] could render a verdict as to only one of the two counts.”³³ The trial judge responded by instructing the jury to continue its deliberation and, more importantly, to “mak[e] some reasonable effort to reach a unanimous verdict.”³⁴ Upon review of a motion for a new trial, the district court held that the language used by the trial judge did not constitute an Allen charge because: [When] a court responds to the first sign of a deadlock merely by suggesting continued deliberation and does not “refer to the expense of a second trial or the need for the minority to reconsider its votes, [impose any] coercive deadline, [make]... threats of marathon deliberations, [or exert]... pressure for the surrendering of conscientiously held minority views,” there has been no coercion of the jury.³⁵ 30 A837 (Trial Tr.

15:1–3). 31 Opening Br. 11–12. 32 497 F. Supp. 1352 (W.D. Pa. 1980), *aff’d*, 649 F.2d 861 (3d Cir. 1981) (TABLE). 33 *Lena*, 497 F. Supp. at 1363. 34 Id. 35 Id. 7 (12) We find the reasoning in *Lena* instructive. Here, like in *Lena*, even if the court indicated a preference for a unanimous verdict, it did not “refer to the expense of a second trial or the need for the minority to reconsider its votes; the court did not impose any coercive deadline,”³⁶ or threaten the jury with a “marathon deliberation.”³⁷ Applying *Lena*’s reasoning to the present case, we find that the trial court’s response was not an Allen charge.

Thus, we need not apply Streitfeld’s four- factor coercion test.³⁸ NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. BY THE COURT: /s/ N. Christopher Griffiths Justice 36 Id. 37 Id. 38 See *Smith*, 341 A.3d 511, 2025 WL 1473872, at *3. 8