

MASSACHUSETTS APPEALS COURT

Commonwealth v. Theogene

No. 24-P-1395 (Mass. App. Ct. Apr. 9, 2026) · No. 24-P-1395 · Decided April 9, 2026

SUMMARY

The Massachusetts Appeals Court affirmed Jonathan Theogene’s convictions for rape and assault and battery. The court held that Snapchat captions describing the victim’s assault were admissible as excited utterances, that the evidence was sufficient to support the convictions, and that the defendant was not entitled to jail credit for time held in custody for civil contempt based on his failure to provide a cell-phone PIN.

CASE DETAILS

COURT	Massachusetts Appeals Court
WRITING FOR THE COURT	Tan, J.; Singh, J.; Grant, J.
JURISDICTION	Massachusetts Appeals Court
DECIDED	April 9, 2026
DOCKET	24-P-1395
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed from convictions of four counts of rape and one count of assault and battery after a jury trial in the Superior Court. He challenged the admission of Snapchat captions as excited utterances, the sufficiency of the evidence, and the denial of jail credit for time spent in civil-contempt custody before sentencing.
STANDARD OF REVIEW	Admission of the Snapchat captions was reviewed for prejudicial error because the defendant objected at trial. Sufficiency of the evidence was reviewed under whether, viewing the evidence and reasonable inferences in the light most favorable to the Commonwealth, any rational trier of fact could find each essential element beyond a reasonable doubt. The civil-contempt and jail-credit issues were reviewed for legal error.
PRECEDENTIAL VALUE	published
PARTIES	Jonathan Theogene v. Commonwealth

TOPICS

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QUESTIONS PRESENTED

1. Whether two typewritten captions added to the victim's Snapchat video qualified as excited utterances.
2. Whether the evidence was sufficient to support the defendant's rape and assault-and-battery convictions, despite asserted inconsistencies in the victim's testimony and the defendant's consent theory.
3. Whether the defendant was entitled under G. L. c. 279, § 33A, to credit against his criminal sentence for time spent in custody as a sanction for civil contempt before sentencing.

HOLDINGS

1. The trial judge acted within his discretion in admitting the Snapchat captions as excited utterances because they were spontaneous reactions to a sufficiently startling event.
2. The evidence, viewed in the light most favorable to the Commonwealth, was sufficient to support the rape and assault-and-battery convictions.
3. A defendant is not entitled under G. L. c. 279, § 33A, to credit against a criminal sentence for time spent in custody as a sanction for civil contempt before sentencing.

KEY QUOTATIONS

“We confront for the first time the question whether defendants who are held in custody prior to sentencing are entitled to jail credit in their criminal cases for the portion of that time when they were detained as a sanction for civil contempt.” (15)

“For the following reasons, we conclude that a defendant is not entitled to jail credit in the criminal case in these circumstances.” (15)

“We conclude that the sanction for civil contempt was a matter that was sufficiently independent of the criminal case on which the defendant was sentenced and that he was not entitled to have that time credited toward his sentence on the criminal case.” (19-20)

FACTUAL BACKGROUND

The victim met the defendant at a shopping mall and went with him to his home, where he engaged in sexual acts after she told him she did not want to continue and struck her in the face, causing a bloody lip. While still in the defendant's home, she recorded a Snapchat video showing her crying and bleeding and added captions asking a friend to track her and stating that the defendant had slapped her during sex. Separately, the defendant was ordered to provide the PIN to his cell phone; after he failed to do so, a judge held him in civil contempt and ordered that he remain in custody until compliance. He was later convicted of four counts of rape and one count of assault and battery.

PROCEDURAL HISTORY

Indictments were returned in the Superior Court Department on March 11, 2022. Before trial, the defendant was held in civil contempt for failing to provide the PIN to his cell phone. A jury convicted him on June 30, 2023, and the trial judge sentenced him on July 24, 2023, awarding 130 days of jail credit but denying credit for the civil-contempt detention. The Appeals Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Latimore, 378 Mass. 671, 676-678 (1979)
- Commonwealth v. Carrasquillo, 489 Mass. 107, 108-109 (2022)
- Commonwealth v. Gelfgatt, 468 Mass. 512, 524 (2014)
- Commonwealth v. Imbert, 479 Mass. 575, 579 (2018)
- Commonwealth v. Santiago, 437 Mass. 620, 623 (2002)
- Commonwealth v. Baldwin, 476 Mass. 1041, 1042 (2017)
- Commonwealth v. Mulgrave, 472 Mass. 170, 178-179 (2015)
- Commonwealth v. DiMonte, 427 Mass. 233, 239 (1998)
- Commonwealth v. Zagranski, 408 Mass. 278, 285 (1990)
- Commonwealth v. Lao, 443 Mass. 770, 779 (2005), S.C., 450 Mass. 215 (2007) and 460 Mass. 12 (2011)
- Commonwealth v. Kapaia, 490 Mass. 787, 793 (2022)
- Commonwealth v. Gonzalez Santos, 100 Mass. App. Ct. 1, 3 (2021)
- Commonwealth v. Ruci, 409 Mass. 94, 97 (1991)
- Commonwealth v. Fitzgerald, 376 Mass. 402, 410-411 (1978)
- Commonwealth v. Lopez, 433 Mass. 722, 727 (2001)
- M.G. v. G.A., 94 Mass. App. Ct. 139, 142 (2018)
- Birchall, petitioner, 454 Mass. 837, 848, 851 (2009)
- International Union, United Mine Workers v. Bagwell, 512 U.S. 821, 828 (1994)
- Matter of Grand Jury Investigation, 92 Mass. App. Ct. 531, 531-532, 536-537 (2017)
- Commonwealth v. Pearson, 95 Mass. App. Ct. 724, 726 (2019)
- Commonwealth v. Mahoney, 415 Mass. 278, 286 (1993)
- Manning v. Superintendent, Mass. Correctional Inst., Norfolk, 372 Mass. 387, 395 (1977)
- Commonwealth v. Milton, 427 Mass. 18, 25 (1998)
- Commonwealth v. Ridge, 470 Mass. 1024, 1024 (2015)