

*Appendix A*

248 A.3d 212  
Supreme Judicial Court of Maine.

Joshua A. GRAY

v.

DEPARTMENT OF PUBLIC SAFETY

Docket: Ken-20-168

|

Argued: February 10, 2021

|

Decided: April 6, 2021

**Attorneys and Law Firms**

Roger L. Hurley, Esq. (orally), Camden, for appellant  
Joshua A. Gray

Aaron M. Frey, Attorney General, and Kent Avery,  
Asst. Atty. Gen. (orally), Office of the Attorney General,  
Augusta, for cross-appellant Department of Public  
Safety

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HOR-  
TON, and CONNORS, JJ.

**Opinion**

HUMPHREY, J.

[¶1] In this appeal, we consider whether the First  
Amendment rights of an applicant for a professional

*Appendix A*

license were abridged by the application of statutory competency standards to his conduct on social media.<sup>1</sup>

[¶2] Joshua A. Gray appeals from a judgment of the Superior Court (Kennebec County, *Murphy, J.*) affirming the Department of Public Safety's denial of Gray's application for a professional investigator license based on posts and comments that Gray made on social media, using an account bearing the name of his out-of-state private investigation business, concerning a Maine State Police lieutenant. Gray argues that the court erred in concluding that the Department had not, in denying his application, violated his free speech rights conferred by the First and Fourteenth Amendments of the United States Constitution.<sup>2</sup> Although Gray challenges the determination that he acted with

---

<sup>1</sup> Gray raises the free speech provisions of only the United States Constitution, U.S. Const. amend. I, and does not make any argument regarding the Maine Constitution's free speech protections. *See* Me. Const. art. I, § 4; *City of Bangor v. Diva's, Inc.*, 2003 ME 51, ¶¶ 10-11 & n.4, 830 A.2d 898; *Portland v. Jacobsky*, 496 A.2d 646, 648-49 (Me. 1985).

<sup>2</sup> Gray also argues that the court abused its discretion in deciding the matter without holding oral argument. Oral argument was not required by M.R. Civ. P. 80C(l), *see Lindemann v. Comm'n on Governmental Ethics & Election Pracs.*, 2008 ME 187, ¶ 26, 961 A.2d 538, and we discern no abuse of discretion in the court's decision not to hear oral argument before deciding the matter. Gray did not bring any independent claims, and the court rejected as untimely his notice of objection to the record—a ruling that Gray does not challenge on appeal. *See* M.R. Civ. P. 80C(f) (requiring that notice of an objection to the record be served on the agency within ten days after the record is filed).

*Appendix A*

“actual malice”<sup>3</sup> in posting and commenting on social media, we conclude that actual malice need not be shown and that we must apply intermediate scrutiny to review the licensing standards as applied to Gray here. Applying that standard, we affirm the judgment.

## I. BACKGROUND

[¶3] On January 26, 2018, Gray applied to the Department for a professional investigator license. *See* 32 M.R.S. § 8107 (2020). The Chief of the Maine State Police issued the decision of the Department denying Gray’s application on August 31, 2018. *See* 32 M.R.S. §§ 8103(1-B), 8113 (2020). The Department found that Gray had made “materially false” statements on social media, including on his private investigation business’s Facebook page, which cast into question Gray’s “ability to competently investigate and then report investigative findings with accuracy, objectivity, and without bias,” and, as a result, that Gray lacked the requisite competency and fitness of character to act as a professional investigator in Maine.

[¶4] Gray appealed to the Superior Court. *See* 5 M.R.S. § 11001(1) (2020); M.R. Civ. P. 80C. The court held that the Department could not deprive Gray of a

---

<sup>3</sup> Statements are made with “actual malice” when they are made with knowledge that they are false or with reckless disregard of their truth or falsity. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279 80, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964); *see Pickering v. Bd. of Educ.*, 391 U.S. 563, 573-75, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968).

*Appendix A*

license for having expressed himself on social media unless the statements he made fell outside the protection of the First Amendment. The court remanded for the Department to determine whether the limited privilege that applies to even false statements about public figures on matters of public concern was overcome by a finding, by clear and convincing evidence, that Gray made the statements on social media with “actual malice,” meaning with knowledge that the statements were false or with reckless disregard of their truth or falsity. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279-80, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964); *see Pickering v. Bd. of Educ.*, 391 U.S. 563, 573-75, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968).

[¶5] On remand, the Department propounded thirty-nine questions to Gray about certain assertions he had made using a social media account identifying himself as a “PI” and including the name of his Massachusetts private investigation business, NSI Surveillance & Investigation. Gray responded to the questions and admitted that he had made on social media posts and comments that stated that a Maine State Police lieutenant was “[p]ossibl[y] drunk” during the time of a police incident that resulted in a woman’s death and that the lieutenant had “murdered” the woman. He asserted to the Department that the statements were opinions, not facts, and that when he learned that another officer—not the lieutenant whom he had named—had shot the woman, he provided that information on social media. He also admitted that he had

*Appendix A*

stated on social media that the lieutenant had been the subject of multiple internal affairs investigations, though he again asserted that his statement was an expression of opinion.

[¶6] During its examination of Gray's responses, the Department reviewed affidavits from (1) the lieutenant in question, who swore that he had not consumed alcohol on the day of the incident or at any time during his life, and (2) the commander of the Department's Office of Professional Standards (OPS), formerly the Office of Internal Affairs, who reported that only one complaint had been made against the lieutenant—a complaint initiated by Gray that had resulted in an investigation. The Department also considered hundreds of pages of printouts of Gray's posts and comments on social media and other internet platforms.

[¶7] The Department issued a second decision denying Gray's application, finding that Gray had made certain statements on social media with actual malice—knowing that they were false or with reckless disregard of their truth or falsity—including statements about the lieutenant's intoxication; statements that the lieutenant had “murdered,” “executed,” or “killed” the woman who died in the incident; and statements that the lieutenant had been subject to multiple complaints filed with the OPS.

[¶8] The decision also stated, however, that the actual malice standard did not apply because even if Gray had the right to say the things he did, he was not

*Appendix A*

entitled to a professional license if he did not meet the competency and character standards for a professional investigator. The Department found that Gray had reported erroneous, uninvestigated conclusions on social media, placing behind those conclusions “the authority of the reputation of [Gray’s] business” and of “the private investigator license of the State of Massachusetts.” The Department also found that Gray “lacks the basic competency and requisite good moral character” to hold a professional investigator’s license and that his “communications have demonstrated a pattern of reckless disregard for the truth.”

[¶9] On October 28, 2019, Gray again appealed to the Superior Court by filing a petition for review of the Department’s denial of his application for a license. *See* 5 M.R.S. § 11001(1); M.R. Civ. P. 80C. The court entered a judgment on June 1, 2020, affirming the Department’s decision, concluding that the Department’s finding of actual malice was supported by the administrative record. Gray timely appealed, and the Department cross-appealed. *See* 5 M.R.S. § 11008 (2020); M.R. App. P. 2B(c)(1).

## II. DISCUSSION

[¶10] We review an administrative agency’s decision “directly for errors of law, abuse of discretion, or findings not supported by substantial evidence in the record.” *Palian v. Dep’t of Health & Hum. Servs.*, 2020 ME 131, ¶ 10, 242 A.3d 164 (quotation marks omitted). To

*Appendix A*

conduct this review here, we will (A) summarize the standards governing the licensing of professional investigators in Maine and (B) review whether the Department, in denying Gray's license application, violated the First Amendment.

#### A. Standards for Licensing Professional Investigators

[¶11] Licensed professional investigators in Maine are authorized to conduct private investigations, including by accepting consideration to obtain information about a crime committed in violation of the law or “[t]he identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person.” 32 M.R.S. § 8103(4-A)(A), (B) (2020). The statutes governing the licensing of professional investigators in Maine establish qualifications for a license, an application process, and standards for denying an application. *See* 32 M.R.S. §§ 8105, 8107, 8113 (2020).

[¶12] To qualify for a professional investigator license, a person must have “demonstrated good moral character.” *Id.* § 8105(4). The Chief of the Maine State Police may refuse to issue a license if an applicant is incompetent, meaning that the applicant “[e]ngaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to the client or the general public” or “[e]ngaged in conduct that evidences a lack of knowledge or an inability to apply

*Appendix A*

principles or skills to carry out the practice” for which the person seeks the license. *Id.* § 8113(6). A license may also be denied if the applicant has violated “standards of acceptable professional conduct adopted by rule” by the Chief of the Maine State Police. *Id.* § 8113(11); *see* 32 M.R.S. § 8103(1-B). No standards of conduct have been adopted by rule, however,<sup>4</sup> meaning that the applicable standards are those provided by statute.

#### B. First Amendment

[¶13] The construction of the First Amendment presents a question of law that we review *de novo*. *See Palian*, 2020 ME 131, ¶ 10, 242 A.3d 164; *Burr v. Dep’t of Corr.*, 2020 ME 130, ¶ 20, 240 A.3d 371.

[¶14] The First Amendment provides, “Congress shall make no law . . . abridging the freedom of speech. . . .” U.S. Const. amend. I. By virtue of the Fourteenth Amendment, the prohibition against governmental abridgement of the freedom of speech applies to state governments. *See* U.S. Const. amend. XIV, § 1 (“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. . . .”); *Jones v. Sec’y of State*, 2020 ME 113, ¶ 19, 238 A.3d 982.

---

<sup>4</sup> The only adopted rule pertaining to professional investigators requires a written examination regarding “handgun safety, weapons handling mechanical operations, and use of force.” 16-222 C.M.R. ch. 9, § 9.03 (effective Aug. 1, 1998).

*Appendix A*

[¶15] Gray argues that the record does not support a finding of actual malice, but the Department argues in response that the actual malice standard is not applicable. To resolve this dispute, we (1) determine the proper standard for evaluating whether the First Amendment has been violated in these circumstances, and (2) apply that standard in reviewing the Department's decision on Gray's application.

### 1. Standard for Determining a First Amendment Violation

[¶16] We review the constitutionality of the applicable statutes as they were applied and do not treat Gray's argument as a facial constitutional challenge because Gray does not argue that the challenged statutes "cannot be applied constitutionally on any set of facts." *Guardianship of Chamberlain*, 2015 ME 76, ¶ 10, 118 A.3d 229.

[¶17] Gray analogizes his situation to that of the teacher in *Pickering v. Board of Education*, whose employment was terminated after he criticized the local board of education in a published letter to the editor of a newspaper. 391 U.S. at 564-65, 88 S. Ct. 1731. Unlike in *Pickering*, however, Gray has not had government employment terminated based on his exercise of the right to speak as a private citizen on a matter of public concern.<sup>5</sup> See *id.* at 564-65, 573-74, 88 S. Ct. 1731.

---

<sup>5</sup> Such a termination of government employment may violate First Amendment rights because teachers cannot "constitutionally

*Appendix A*

Rather, he has been subjected to regulations governing the licensing of professional investigators based on his conduct as a member of the profession for which he seeks a license. *Cf. Garcetti v. Ceballos*, 547 U.S. 410, 421, 426, 126 S. Ct. 1951, 164 L. Ed. 2d 689 (2006) (“We reject . . . the notion that the First Amendment shields from discipline the expressions employees make pursuant to their professional duties.”). The analysis set forth in *Pickering* is, therefore, inapposite.

[¶18] Because of the power of government to regulate conduct, governmental authority “to regulate the professions is not lost whenever the practice of a profession entails speech.” *Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Balt.*, 879 F.3d 101, 109 (4th Cir. 2018) (quotation marks omitted). “States may regulate professional conduct, even though that conduct incidentally involves speech.” *Nat'l Inst. of Fam. & Life Advocs. [NIFLA] v. Becerra*, \_\_\_ U.S. \_\_\_, 138 S. Ct. 2361, 2372, 201 L. Ed. 2d 835

---

be compelled to relinquish the First Amendment rights they would otherwise enjoy as citizens to comment on matters of public interest in connection with the operation of the public schools in which they work.” *Pickering*, 391 U.S. at 568, 88 S. Ct. 1731. In such instances, courts must “arrive at a balance between the interests of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Id.* The Supreme Court therefore held that “absent proof of false statements knowingly or recklessly made by [a teacher], a teacher’s exercise of [the] right to speak on issues of public importance may not furnish the basis for [the teacher’s] dismissal from public employment.” *Id.* at 574, 88 S. Ct. 1731.

*Appendix A*

(2018). The State “bears a special responsibility for maintaining standards among members of the licensed professions” and “does not lose its power to regulate commercial activity deemed harmful to the public whenever speech is a component of that activity.” *Ohralik v. Ohio State Bar Ass’n*, 436 U.S. 447, 456, 460, 98 S. Ct. 1912, 56 L. Ed. 2d 444 (1978).

[¶19] Occupational licensing requirements are not categorically exempt from First Amendment scrutiny, however, *see Vizaline, L.L.C. v. Tracy*, 949 F.3d 927, 934 (5th Cir. 2020), and the Supreme Court has signaled that professional speech does not fall into a unique category that is exempt from First Amendment protections, *see NIFLA*, 138 S. Ct. at 2373-75. The pertinent standard for determining whether a regulation governing entry into a profession violates the First Amendment has become a subject of some confusion throughout the United States.

[¶20] Following the issuance of *Lowe v. Securities and Exchange Commission* in 1985, many courts cleaved to the standard set forth in Justice White’s concurring opinion in that matter: “Regulations on entry into a profession, as a general matter, are constitutional if they have a rational connection with the applicant’s fitness or capacity to practice the profession.” 472 U.S. 181, 228, 105 S. Ct. 2557, 86 L. Ed. 2d 130 (1985) (White, J., concurring) (quotation marks omitted); *see, e.g., Hines v. Alldredge*, 783 F.3d 197, 201-02 & n.17 (5th Cir. 2015), *abrogation recognized by Vizaline*, 949 F.3d at 933-34; *Nat’l Ass’n for the Advancement of*

*Appendix A*

*Multijurisdiction Prac. v. Howell*, 851 F.3d 12, 16, 19-20 (D.C. Cir. 2017) (applying rational basis review to restrictions on who may appear as counsel before a local federal court); *Nat'l Ass'n for the Advancement of Multijurisdiction Prac. v. Castille*, 799 F.3d 216, 221 (3d Cir. 2015) (“It has long been true that [a] State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, so long as any requirement has a rational connection with the applicant’s fitness or capacity to practice law.” (alteration in original) (quotation marks omitted)).

[¶21] Because, however, the Supreme Court held in 2018 that it has never recognized “professional speech as a unique category that is exempt from ordinary First Amendment principles,” *NIFLA*, 138 S. Ct. at 2375, it is unclear whether the “rational connection” test is appropriately applied even as to standards of qualification to practice a profession, *see Vizaline*, 949 F.3d at 934 (“While we hold the district court erred by categorically exempting occupational-licensing requirements from First Amendment scrutiny, we express no view on what level of scrutiny might be appropriate for applying Mississippi’s licensing requirements to [the plaintiff]’s practice.”).

[¶22] The Supreme Court *has* made clear that if regulations impose *content-based* restrictions on speech, strict scrutiny or intermediate scrutiny may be applied, depending on whether the affected speech was commercial speech. *See NIFLA*, 138 S. Ct. at 2374-75;

*Appendix A*

*Otto v. City of Boca Raton*, 981 F.3d 854, 859-68 (11th Cir. 2020) (applying strict scrutiny to an ordinance prohibiting sexual orientation change therapies because the ordinance imposed content- and viewpoint-based restrictions on speech); *see also Holder v. Humanitarian L. Project*, 561 U.S. 1, 27-28, 130 S. Ct. 2705, 177 L. Ed. 2d 355 (2010) (stating that although a law may be directed at conduct, the conduct triggering the application of that law may consist of communicating a particular message and therefore may require a court to apply First Amendment principles).<sup>6</sup>

[¶23] The treatment of regulations governing the licensing of professionals that place a merely incidental burden on speech is, however, unclear. Free speech concerns are implicated in such cases because “constitutional violations may arise from the deterrent, or chilling, effect of governmental [efforts] that fall short of a direct prohibition against the exercise of First

---

<sup>6</sup> Before *National Institute of Family & Life Advocates [NIFLA] v. Becerra*, \_\_\_ U.S. \_\_\_, 138 S. Ct. 2361, 2372, 201 L. Ed. 2d 835 (2018), some intermediate level of scrutiny was applied in reviewing content-based standards governing attorney conduct that included “actual malice” language prohibiting a lawyer from making “a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications, integrity, or record of a judge.” *Standing Comm. on Discipline of the U.S. Dist. Ct. v. Yagman*, 55 F.3d 1430, 1437 (9th Cir. 1995) (quotation marks omitted) (applying an objective test of whether the attorney “had a reasonable factual basis for making the statements, considering their nature and the context in which they were made”); *In re Dixon*, 994 N.E.2d 1129, 1132-37 (Ind. 2013) (same).

*Appendix A*

Amendment rights.” *Bd. of Cnty. Comm’rs v. Umbehr*, 518 U.S. 668, 674, 116 S. Ct. 2342, 135 L. Ed. 2d 843 (1996) (alteration in original) (quotation marks omitted) (explaining that “unconstitutional conditions” may not be placed on government benefits).<sup>7</sup> However, it is unclear whether such regulations are subject to the “rational connection” test, *see Lowe*, 472 U.S. at 228, 105 S. Ct. 2557 (White, J., concurring), or must survive intermediate scrutiny, meaning that they “must be narrowly tailored to serve a significant governmental interest,” *Packingham v. North Carolina*, \_\_\_ U.S. \_\_\_, 137 S. Ct. 1730, 1736, 198 L. Ed. 2d 273 (2017) (quotation marks omitted). The Supreme Court did not decide the question in *NIFLA*, 138 S. Ct. at 2373-75, but a handful of courts have since opined on the issue.

[¶24] The United States Court of Appeals for the Fourth Circuit recently considered a North Carolina ban on the practice of law by corporations—a professional regulation that incidentally affected speech. *Capital Associated Indus. v. Stein*, 922 F.3d 198, 207 (4th Cir. 2019). As that court stated, “Many laws that regulate the conduct of a profession or business place incidental burdens on speech, yet the Supreme Court has treated them differently than restrictions on speech.” *Id.* at 207-08.

---

<sup>7</sup> “[I]f the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited.” *Perry v. Sindermann*, 408 U.S. 593, 597, 92 S. Ct. 2694, 33 L. Ed. 2d 570 (1972).

*Appendix A*

[¶25] The court held that the practice of law involved both communicative and noncommunicative aspects and that the pertinent statutes did not target “the communicative aspects of practicing law, such as the advice lawyers may give to clients” but instead focused on who may act as a lawyer. *Id.* at 208. “Licensing laws inevitably have some effect on the speech of those who are not (or cannot be) licensed. But that effect is merely incidental to the primary objective of regulating the conduct of the profession.” *Id.*

[¶26] The court observed that, although intermediate scrutiny ordinarily applies to regulations of conduct that incidentally impact speech, “the [Supreme] Court’s cases have not been crystal clear about the appropriate standard of review” given that regulations relating to admission to a profession fall in “an area in which [the Court] ‘has afforded *less* protection for professional speech.’” *Id.* (quoting *NIFLA*, 138 S. Ct. at 2372); *see also AMA v. Stenehjem*, 412 F. Supp. 3d 1134, 1148-49 (D.N.D. 2019) (following *Stein*). The court concluded, however, that intermediate scrutiny should be applied, stating, “We think this a sensible result, as it fits neatly with the broad leeway that states have to regulate professions.” *Stein*, 922 F.3d at 209; *but see Doyle v. Palmer*, 365 F. Supp. 3d 295, 304-05 (E.D.N.Y. 2019) (holding that the requirement of a sponsor’s affidavit for Bar admission “is nothing more than a standard regulation of the legal profession that . . . passes rational basis review”).

*Appendix A*

[¶27] Confronting the question of the proper level of scrutiny, another court described the legal ambiguity as follows:

[T]he Court in *NIFLA* explained that a lower level of scrutiny should be applied to two kinds of content-neutral restrictions: (1) laws that require professionals to disclose factual, noncontroversial information in their commercial speech[]; and (2) *regulations of professional conduct that incidentally burden speech*. Although the Court in *NIFLA* did not specifically state what level of review—how much lower than strict scrutiny—applied to regulations of professional conduct that incidentally burden speech, the Court appeared to apply intermediate scrutiny.

*McLemore v. Gumucio*, No. 3:19-cv-00530, 2020 WL 7129023 at \*20, 2020 U.S. Dist. LEXIS 228082 at \*59 (M.D. Tenn. Dec. 4, 2020) (emphasis added) (quotation marks omitted) (citation omitted). That court, citing *Stein*, 922 F.3d at 209, assumed for purposes of deciding a motion to dismiss that intermediate scrutiny would apply if the merits were reached. *Id.* at \*60-61.

[¶28] In light of *NIFLA* and *Stein*, we similarly conclude that intermediate scrutiny is the proper test to apply when a regulation of conduct that does not explicitly target speech but incidentally burdens it is challenged on First Amendment grounds.<sup>8</sup> Here, the

---

<sup>8</sup> Although we apply intermediate scrutiny based on our reading of *NIFLA*, 138 S. Ct. at 2370-75, applying the less stringent

*Appendix A*

licensing standards, requiring good character and competency in investigating matters, do not on their face prohibit or constrain speech. *Cf. NIFLA*, 138 S. Ct. at 2372. The licensing statutes incidentally affect an applicant's speech, however, because determining whether an applicant meets the requirements of good character and competency may depend—as it does here—upon the applicant's communications. *See id.*; 33 M.R.S. §§ 8105(4), 8113(6). We therefore apply intermediate scrutiny to review the Department's application of the licensing statutes to Gray's application.

## 2. Application of Intermediate Scrutiny

[¶29] Unlike a determination of actual malice, which “involve[s] legal, as well as factual, elements,” and requires an independent examination of the record, intermediate scrutiny does not involve that level of review, and we will accept the facts found by the Department unless they are unsupported by evidence in the record. *Hernandez v. New York*, 500 U.S. 352, 367-68, 111 S. Ct. 1859, 114 L. Ed. 2d 395 (1991); *see Palian*, 2020 ME 131, ¶ 10, 242 A.3d 164. Thus, we proceed to (a) review the findings of the Department and (b) apply intermediate scrutiny to the licensing standards as applied.

---

“rational connection” test would yield the same result, *Lowe v. S.E.C.*, 472 U.S. 181, 228, 105 S. Ct. 2557, 86 L. Ed. 2d 130 (1985) (White, J., concurring) (quotation marks omitted).

*Appendix A*

## a. Review of Findings

[¶30] We review the decision of the Department to determine whether its findings are “supported by substantial evidence in the record.” *Palian*, 2020 ME 131, ¶ 10, 242 A.3d 164 (quotation marks omitted).

[¶31] In its final decision, the Department specifically found that Gray made uninvestigated and false statements, using the social media account of his investigation business, in which he suggested that the lieutenant was intoxicated; stated that the lieutenant had “murdered,” “executed,” or “killed” a woman; and indicated that the lieutenant had been subject to multiple complaints filed with the OPS. Gray admitted, through his responses to the Department’s written questions, that the statements, which were made part of the evidentiary record, were his.

[¶32] Substantial evidence in the record supports the Department’s determination that Gray used a social media account bearing his investigation business’s name to repeatedly publicize uninvestigated and false statements. The evidence also supports the Department’s ultimate finding that Gray’s behavior demonstrated that he lacked the necessary good character and competency to serve as an investigator in Maine. *See* 32 M.R.S. § 8105(4) (requiring the demonstration of “good moral character”); *id.* § 8113(6) (authorizing the denial of a professional investigator’s license if the applicant lacks competency to carry out the duties of an investigator); *id.* § 8103(4-A)(A), (B) (establishing a

*Appendix A*

professional investigator’s role in investigating the crimes, conduct, reputation, or character of others). The record also supports the Department’s finding that Gray’s responses to the questions propounded on him demonstrated a lack of capacity to distinguish between fact and opinion—an ability that a professional investigator must possess. *See id.* § 8113(6)(B). The Department therefore did not err in its findings.

b. Intermediate Scrutiny of the Licensing Standards as Applied

[¶33] The question before us is whether the statutory licensing standards, as applied in Gray’s case, were “narrowly tailored to serve a significant governmental interest.” *Packingham*, 137 S. Ct. at 1736 (quotation marks omitted); *see NIFLA*, 138 S. Ct. at 2372.

[¶34] The Department denied the license application because, as the record supports, Gray published uninvestigated speculation as fact using his job title and the name of his Massachusetts private investigation business—conduct that demonstrated a lack of capacity to distinguish between fact and opinion, and to investigate and honestly report facts. *See* 32 M.R.S. §§ 8103(4-A)(A), (B), 8105(4), 8113(6); *see also* *Office of Pro. Regul. v. McElroy*, 175 Vt. 507, 824 A.2d 567, 568-69, 571 (2003). The government has a significant interest in maintaining standards of good character and competency for those who investigate and report on the intimate details of others’ lives. *See* 32 M.R.S.

*Appendix A*

§ 8103(4-A)(A), (B); *Fla. Bar v. Went for It, Inc.*, 515 U.S. 618, 625, 115 S. Ct. 2371, 132 L. Ed. 2d 541 (1995) (“States have a compelling interest in the practice of professions within their boundaries, and . . . as part of their power to protect the public health, safety, and other valid interests they have broad power to establish standards for licensing practitioners and regulating the practice of professions.” (quotation marks omitted)).

[¶35] The Department denied Gray’s application not because of the viewpoint he expressed on social media but because of the false, uninvestigated information that Gray presented as fact using the name of his Massachusetts private investigation business. The Department’s rationale for its decision goes to the heart of professional responsibility concerns and does not chill any speech other than that which would, for a professional investigator, violate standards of conduct in a profession that is focused on the investigation and accurate communication of facts. *See In re R. M. J.*, 455 U.S. 191, 203, 102 S. Ct. 929, 71 L. Ed. 2d 64 (1982) (holding that, when a state regulates in a way that affects speech, it must have “a substantial interest and the interference with speech must be in proportion to the interest served”). The Department’s application of the statutes was, therefore, narrowly tailored to serve the significant governmental interest in maintaining standards for licensing professional investigators, who are responsible for researching and reporting on some of the most consequential details of people’s

*Appendix A*

lives by investigating “[t]he identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character” of others. 32 M.R.S. § 8103(4-A)(A), (B); *see Packingham*, 137 S. Ct. at 1736. In short, the Department’s application of the licensing standards to Gray did not violate the First Amendment.

The entry is:

Judgment affirmed.

---

*Appendix B*

2020 WL 4517878 (Me.Super.) (Trial Order)

Superior Court of Maine.

Kennebec County

Joshua GRAY, Petitioner,

v.

STATE of Maine, Department of Public Safety,  
Respondent.

No. AP-19-49.

May 22, 2020.

CIVIL ACTION

**Order on Petitioner's 80C Appeal**

Before the Court is Petitioner Joshua Gray's 80C petition for review of the Department of Public Safety's (the "Department's") denial of his application for a Professional Investigator's License. For the following reasons, the petition is denied.

**Background**

Joshua Gray is licensed as a professional investigator in Tennessee, Vermont, Massachusetts and New Hampshire. On January 26, 2018, Mr. Gray applied for a professional investigator's license in Maine. On August 31, 2018, the Chief of the Maine State Police (the "Chief") denied Mr. Gray's Application. On October 11, 2018, Mr. Gray filed an 80C petition for review of the denial of his application. On July 18, 2019, this court remanded Mr. Gray's application to the Department for the purposes of allowing the Commissioner

*Appendix B*

to determine whether certain allegedly false statements that Mr. Gray published on social media were published with “actual malice.” *Gray v State of Maine, Dep’t of Public Safety*, KENSC-AP-18-65, (Me. Super. Ct., Kennebec Cty., July 17, 2019) After conducting a further investigation, the Chief issued a written decision on October 2, 2019 in which he determined that Mr. Gray had made certain false statements with actual malice and that these statements demonstrated that Mr. Gray was not fit to obtain a professional investigator license. This appeal followed.

**Standard of Review**

The Court reviews an administrative agency’s decision for an abuse of discretion, error of law, or findings not supported by the evidence. *Uliano v. Bd. of Envtl. Prot.*, 2009 ME 89, ¶ 12, 977 A.2d 400 (citation omitted). Questions of law are subject to de novo review. *Id.* (citing *York Hosp. v. Dep’t of Health & Human Servs.*, 2008 ME 165, ¶ 32, 959 A.2d 67). The reviewing court will affirm findings of fact if they are supported by “substantial evidence in the record”, even if the record contains inconsistent evidence or evidence contrary to the result reached by the agency. *Passadumkeag Mountain Friends v. Bd. of Environmental Prot.*, 2014 ME 116, ¶¶ 12, 14, 102 A.3d 1181. The party seeking to overturn an administrative decision must “demonstrate that no competent evidence supports the [agency’s] decision and that the record compels a contrary result.” *Richardson v. Bd. of Trs. of the Me. State Ret. Sys.*, 1998 ME 171, ¶ 4, 714 A.2d 154.

*Appendix B***Discussion**

In order to obtain a professional investigator license, an applicant must demonstrate that he possesses good moral character. 32 M.R.S. § 8105(4). Further, the Chief may refuse to issue a license if the applicant has:

- A. Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or
- B. Engaged in conduct that evidences a lack of knowledge or an inability to apply principles or skills to carry out the practice for which the person is licensed.

*Id.* § 8113(6).

In this case, the record contains competent evidence to support a finding that Mr. Gray engaged in conduct evidencing a lack of fitness to discharge duties owed to the general public as well as the inability to apply principles necessary to act as a professional investigator. For instance, there is record evidence that Mr. Gray published statements on social media that a Lieutenant in the Maine State Police was “most likely drunk” when the Lieutenant was involved in an incident which resulted in the death of two individuals. (R. 157-58, 162.) There is also evidence that Mr. Gray made these statements based solely on the fact that the Lieutenant was off-duty at the time of the incident and that the incident occurred close to the Lieutenant’s

*Appendix B*

home. (R. 383.) Further, there is evidence that Mr. Gray has a lengthy history of engaging in online diatribes against the same Lieutenant. (*See e.g.* R. 125, 130, 133, 198-200, 206, 239-41, 245-47; *see also* R. 377.) Finally, Mr. Gray admits that his statements were speculative and that he never had any facts about the Lieutenant's alcohol consumption. (Pet'r's Br. at 6.)

Given that the context of this case is a professional licensing matter, this evidence supports a finding that Mr. Gray's publication of statements to which a defamatory meaning could be attributed, *see Haworth v. Feigon*, 623 A.2d 150, 156-57 (Me. 1993) (holding that it was not error for the factfinder to attribute a defamatory meaning to the appellation "drunk"), based on nothing more than speculation constitutes reckless disregard for the truth which is sufficient to deny his application for a professional investigator license. *See* 32 M.R.S. §§ 8105(4), 8113(6).

**The entry is**

**The Decision of the Chief of the Maine State Police to Deny Joshua Gray's Application for a State of Maine Professional Investigator License is AFFIRMED**

**Date:** 5/22/2020

<<signature>>

**Justice, Superior Court**

---

*Appendix C*

[SEAL]

**STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
MAINE STATE POLICE**

JANET T. MILLS  
GOVERNOR

COL JOHN E. COTE  
CHIEF

MICHAEL J. SAUSCHUCK  
COMMISSIONER

LTC WILLIAM S. HARWOOD  
DEPUTY CHIEF

2 October 2019

Mr. Joshua A. Gray  
c/o Mr. Roger L. Hurley, Esq.  
48 Washington Street  
Camden, ME 04843

**RE: *Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65)***

Dear Mr. Gray:

I have reviewed your responses to the 39 questions that were sent to your attorney to assist with the determination as to whether, per the presiding Maine Superior Court's 18 July 2019 Order, your statements on your NSI Investigative & Surveillance business' Facebook page "were made with actual malice as defined by Maine law." "Order on Petitioner's Appeal" at 7, *Gray v. State of Maine, Department of Public Safety*, Maine Superior Court Dkt. No. AP-18-65 (07/18/2019).

Even if the pending administrative licensing matter were a defamation action – which it is not – and the

*Appendix C*

“actual malice” legal standard were the correct standard to apply, the record as of the date of this letter contains clear evidence that you made at least some of your statements on your business’ Facebook page with actual malice – i.e., “‘with knowledge that [they were] false or with reckless disregard of whether [they were] false or not.’” *Plante v. Long*, 2017 ME 189, ¶ 10 (2017) (quoting *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 659 (quoting *Times v. Sullivan*, 376 U.S. 254, 279-280 (1964))).

The record in this matter thus evidences the lack of competency, analytical reasoning skills, and good moral character needed to qualify for a Professional Investigator license issued by the State of Maine.

\*\*\*

The record developed to date contains clear evidence that at least some of your statements on your business’ Facebook page were made with actual malice – i.e., “‘with knowledge that [they were] false or with reckless disregard of whether [they were] false or not.’” *Id.* Three of the most apparent examples are (1) your statements implying that LT Scott W. Ireland was not only drinking, but was “possibl[y] drunk” or “most likely drunk” at the time of the incident that resulted in the death of the late Ms. Amber Fagre; (2) your statements that LT Ireland “murdered,” “executed,” or “killed” the late Ms. Fagre; and (3) your statements that LT Ireland has a history of “complaints” filed with the Maine State Police Office of Internal Affairs (now

*Appendix C*

called the Office of Professional Standards (“OPS”)) and of Internal Affairs “investigations.”

With respect to your statements that LT Ireland was “possibl[y] drunk” or “most likely drunk” – as well as your statement that you “suspect[ed LT Ireland] was drinking” – at the time of the incident that resulted in the death of the late Ms. Amber Fagre:

In your responses to the 39 questions that you submitted, you repeatedly asserted that you based those various statements on the following:

1. That LT Ireland “was Off Duty” [sic]; and
2. That the incident “happened close to [LT Ireland’s] home/personal residence.”

According to your responses to the questions, those were the two factors that led you to speculate on your business’ publicly-accessible Facebook page that LT Ireland was “possibl[y] drunk” or “most likely drunk” at the time of the incident that resulted in the death of the late Ms. Fagre.

LT Ireland could have been engaged in countless activities while he was at home and off duty. Based on the record now before me, there is no indication that he was drinking alcoholic beverages. The record reflects that LT Ireland does not consume – and never has consumed – alcoholic beverages. *See “Affidavit of LT Scott W. Ireland,” Joshua Gray v. State of Maine, Department of Public Safety,* (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65).

*Appendix C*

You stated in many of your responses to the questions about such statements that they were not written with “malicious intent,” i.e., with mean-spiritedness. The record demonstrates, however, that for a sustained period of time – years now – you repeatedly have expressed animus toward LT Ireland, calling him – among other things – a “dirty cop,” “corrupt,” and “evil.” It is not credible that your statements about LT Ireland being “possibl[y]” or “most likely” “drunk” at the time of the incident were made without “malicious intent” (i.e., mean-spiritedness). The statements instead reflect a continuing effort to portray LT Ireland publicly in a negative light through defamatory falsehoods.

\*\*\*

With respect to your statements that LT Ireland “murdered,” “executed,” or “killed” the late Ms. Fagre:

Despite the fact that at least two officers were involved in the incident that resulted in Ms. Fagre’s death, you explained in responses to the 39 questions that you “initially assumed” that LT Ireland fired the shot that struck Ms. Fagre because “the shooting happened near Lt Irelands [sic] residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several articles.” (My underlined italicization added.)

Only almost a full year after the incident did you correct your misstatements to inform those visiting your business’ website that LT Ireland did not fire the

*Appendix C*

round that struck Ms. Fagre. During the intervening time, individuals from anywhere in the world who visited your business' website might have read such statements and believed (and still might believe) incorrectly that LT Ireland fired the round that struck Ms. Fagre. And you only corrected those statements because the Maine Office of the Attorney General issued its report about the incident that identified another officer – and not LT Ireland – as having shot the round that struck Ms. Fagre.

As with the comments about LT Ireland being “possibl[y] drunk” or “likely drunk,” you qualified the responses to questions about these statements by saying that they were not made with “malicious intent,” i.e., with mean-spiritedness. When you described LT Ireland as a “killer,” and stated that he “Killed” [sic], “murdered,” and “executed Amber Fagre in the back of the head in cold blood,” your statements were not only reckless because they disregarded fact, but also reflect a sustained animus toward LT Ireland and a continued effort to portray him publicly in a negative light through defamatory falsehoods.

\*\*\*

With respect to your statements that LT Ireland has a history of “complaints” filed with the OPS and has a history of Internal Affairs/OPS “investigations”:

The record before me now shows that, based on the records available to the OPS, LT Ireland has been the subject of only one (1) complaint and one (1) OPS

*Appendix C*

investigation during his over 25-year career with the Maine State Police. That sole investigation resulted from your complaint. See “Affidavit of LT Anna H. Love,” *Joshua Gray v. State of Maine, Department of Public Safety*, (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65).

You nonetheless have recklessly perpetuated a sustained narrative – based on alleged stories told to you by unnamed individuals – that LT Ireland’s career has been plagued with complaints and OPS/Internal Affairs investigations. You continued to perpetuate that myth in your responses to the 39 questions, further compounding your recklessness. (On a related note, you had also stated on your business’ Facebook page that LT Ireland has a history of “suspensions” (my underlined italicization). In a response to one of the 39 questions, you explained that the added “s” to “suspensions” was a “typo.” Given the record before me, I do not find that explanation credible.)

As with the prior statements I discussed above, you again qualified your responses about these statements by saying they were not made with “malicious intent,” i.e., with mean-spiritedness. Again, your declaration that you had no “malicious intent” in leading individuals who visited your website to think that LT Ireland has been or is – as you continually have tried to make him seem – a “corrupt,” “dirty cop,” is not credible. The apparent purpose in making the statements about complaints and investigations was to continue portray LT Ireland publicly in a negative light through

*Appendix C*

defamatory falsehoods. Indeed, the many misstatements also appear to violate the standards of leading industry trade groups – specifically, the Codes of Ethics of both the National Association of Legal Investigators (“NALI”) and the Maine Licensed Private Investigators Association (“MLPIA”).

\*\*\*

The discussion here so far has been premised on the presumption that the “actual malice” standard that the Maine Superior Court presiding over this matter applied is the correct standard to apply. If that were the correct standard, the record contains clear evidence that the standard has been met.

Respectfully, however, I do not think the “actual malice” standard is applicable in the pending matter. This is not a defamation case. Rather, the pending matter is an administrative licensing case in which the licensing authority must determine whether an applicant has the competency and character to qualify for a license to be, and be entrusted to work as, a Professional Investigator in the State of Maine. *See* 32 M.R.S.A. §§ 8105(4), 8113(6).

For the reasons I have discussed thus far, I find that you do not. Based on your responses to the 39 questions that were forwarded to you, I have concluded that you seem unable to discern a factual statement from a statement of opinion, and that you lack the basic analytical skills to be a Professional Investigator licensed by the State of Maine.

*Appendix C*

You and Mr. Hurley have sought to frame the pending administrative licensing matter as a First Amendment case. To be sure: I believe you have every right to express yourself however you choose, within the law. But, in making my decision of whether to entrust you with a Professional Investigator license, I have the responsibility to assess your competency and character to be a Professional Investigator, including by weighing the integrity of what you express to the world on your NSI Investigation and Surveillance business' Facebook website.

A Professional Investigator has a duty to establish and report facts; indeed, that is the fundamental responsibility of such an investigator. Based on the record before me, I have concluded that you are not able to do so. The record clearly shows that you closely looked into the February 2017 shooting incident (you even admitted doing so in your "spare time" in one of your 39 responses) and reported your conclusions on your business' Facebook page – a Facebook page that has not only the authority of the reputation of your business behind it, but the authority of at least the private investigator license of the State of Massachusetts behind it as well. Yet you eventually had to correct a number of those conclusions when the actual facts came to light or were brought to your attention (including brought to your attention by the Assistant Attorney General representing my agency in this matter). The fact that you belatedly corrected your misstatements of fact does not mitigate the fact of your

*Appendix C*

poor judgment in making the assertions in the first place.

As a matter of consumer protection, I cannot issue a State of Maine Professional Investigator license to someone who lacks the basic competency and requisite good moral character to hold such a license. Your communications have demonstrated a pattern of reckless disregard for the truth.

Accordingly, I am **denying** your application for a State of Maine Professional Investigator license.

/s/ John E. Cote  
**COL JOHN E. COTE**  
**CHIEF, MAINE STATE POLICE**

---

*Appendix C*

STATE OF MAINE	SUPERIOR COURT
KENNEBEC, ss	CIVIL ACTION
	DOCKET NO. AP-18-65

JOSHUA GRAY,	)
Petitioner	)
v.	)
STATE OF MAINE,	)
DEPARTMENT OF	)
PUBLIC SAFETY,	)
Respondent	)

AFFIDAVIT OF  
LT SCOTT W. IRELAND

LT Scott W. Ireland states as follows upon his personal knowledge:

1. I am the Commander of the Computer Crimes Unit, which is located within the Bureau of State Police of the Maine Department of Public Safety.
2. I have worked for the Maine State Police for more than twenty-five (25) years,
3. I did not consume alcoholic beverages of any kind (including, but not limited to, beer, liquor, or wine) on 10 February 2017,
4. I did not consume alcoholic beverages of any kind (including, but not limited to, beer, liquor, or wine) on 9 February 2017.

## Appendix C

5. I did not consume alcoholic beverages of any kind (including, but not limited to, beer, liquor, or wine) during 2017.

6. I have not consumed alcoholic beverages of any kind (including, but not limited to, beer, liquor, or wine) at any point during my career with the Maine State Police, up to and including the date given below.

7. I have never consumed an alcoholic beverage of any kind (including, but not limited to, beer, liquor, or wine) during my life.

2 October 2019 /s/ Scott W. Ireland  
LT Scott W. Ireland  
Maine State Police

*Appendix C*

**STATE OF MAINE  
KENNEBEC COUNTY**

LT Scott W. Ireland personally appeared before me today and made oath that the statements made in his Affidavit are true based upon his personal knowledge.

Dated: 2 October 2019

/s/ Carol A. Tompkins  
Notary Public/Attorney-At-Law

CAROL A. TOMPKINS  
[SEAL] NOTARY PUBLIC – MAINE  
MY COMMISSION EXPIRES  
MARCH 30, 2023

---

*Appendix C*

STATE OF MAINE	SUPERIOR COURT
KENNEBEC, ss	CIVIL ACTION
	DOCKET NO. AP-18-65

JOSHUA GRAY,	)
Petitioner	)
v.	)
STATE OF MAINE,	)
DEPARTMENT OF	)
PUBLIC SAFETY,	)
Respondent	)

AFFIDAVIT OF  
LT ANNA H. LOVE

LT Anna H. Love states as follows upon her personal knowledge:

1. I am the Commander of the Office of Professional Standards (formerly called the Office of Internal Affairs), which is located within the Bureau of State Police of the Maine Department of Public Safety.
2. That, having reviewed records of the Office of Professional Standards (“OPS”) available to me, I am reporting:
  - A. That a total of one (1) investigation of LT Scott W. Ireland has been initiated and conducted by OPS as a result of a personnel complaint – made by a Mr. Joshua Gray against LT Ireland – during LT Ireland’s career with the Maine State Police; and

## Appendix C

B. That a total of one (1) personnel complaint against LT Scott W. Ireland has been received by OPS during LT Ireland's career with the Maine State Police – namely, the aforementioned personnel complaint made by a Mr. Joshua Gray.

2 October 2019 /s/ Lt. Anna H. Love  
LT Anna H. Love  
Maine State Police

**STATE OF MAINE  
KENNEBEC COUNTY**

LT Anna H. Love personally appeared before me today and made oath that the statements made in her Affidavit are true based upon her personal knowledge.

Dated: 2 October 2019

/s/ Carol A. Tompkins  
Notary Public/Attorney-At-Law

CAROL A. TOMPKINS  
[SEAL] NOTARY PUBLIC – MAINE  
MY COMMISSION EXPIRES  
MARCH 30, 2023

*Appendix C*

**QUESTION 1**

On page 58 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Medical Examiners report states clearly that Kadhar was shot in the back. Specifically back of neck where back and neck come together.”

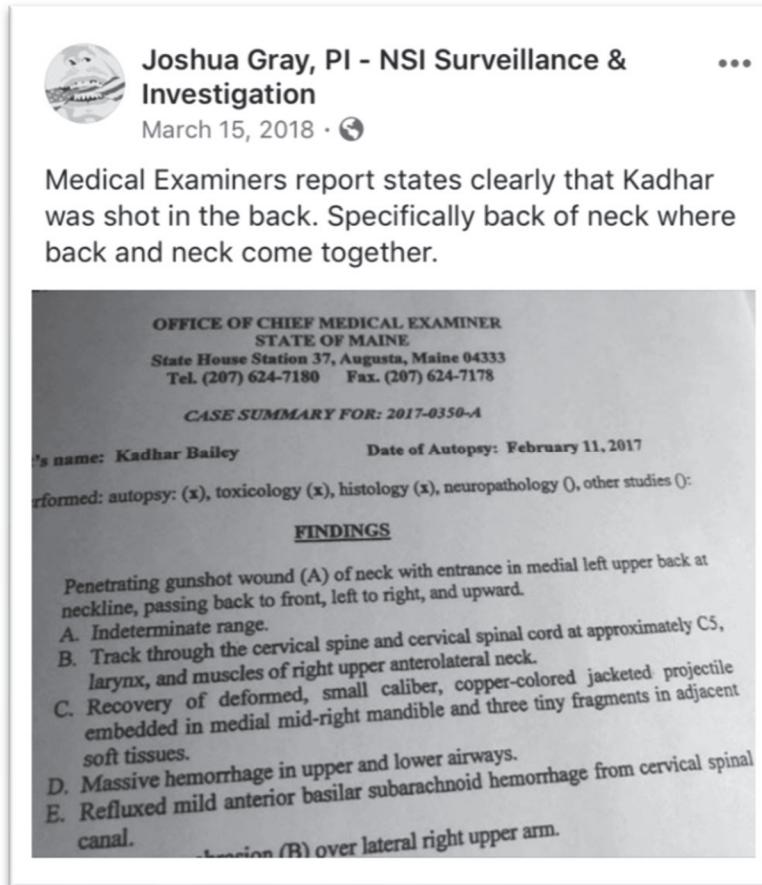
At the time you made the assertion that the “Medical Examiners report states clearly that Kadhar was shot in the back. Specifically back of neck where back and neck come together,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that the “Medical Examiners report states clearly that Kadhar was shot in the back. Specifically back of neck where back and neck come together”? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is a picture of this actual post:

41a

*Appendix C*



**Joshua Gray, PI - NSI Surveillance & Investigation**

March 15, 2018 · 

Medical Examiners report states clearly that Kadhar was shot in the back. Specifically back of neck where back and neck come together.

**OFFICE OF CHIEF MEDICAL EXAMINER  
STATE OF MAINE**  
State House Station 37, Augusta, Maine 04333  
Tel. (207) 624-7180 Fax. (207) 624-7178

**CASE SUMMARY FOR: 2017-0350-A**

**Deceased's name:** Kadhar Bailey      **Date of Autopsy:** February 11, 2017

**Performed:** autopsy: (x), toxicology (x), histology (x), neuropathology ( ), other studies ( )

**FINDINGS**

Penetrating gunshot wound (A) of neck with entrance in medial left upper back at neckline, passing back to front, left to right, and upward.

- A. Indeterminate range.
- B. Track through the cervical spine and cervical spinal cord at approximately C5, larynx, and muscles of right upper anterolateral neck.
- C. Recovery of deformed, small caliber, copper-colored jacketed projectile embedded in medial mid-right mandible and three tiny fragments in adjacent soft tissues.
- D. Massive hemorrhage in upper and lower airways.
- E. Refluxed mild anterior basilar subarachnoid hemorrhage from cervical spinal canal.

Embolization (B) over lateral right upper arm.

This is my opinion and not a 'fact' as suggested in the question.

This post was written on 3/15/18 after I received a picture of a portion of the report. The social media post was based solely on the attached picture of part of the medical examiner's report. The picture was part of the post and was intended for the reader to look at both

*Appendix C*

the social media post and the text on the picture that goes into specificity about the shooting. Specifically the following

“Penetrating gunshot wound (A) of neck with entrance in medial left upper back at neckline, passing back to front, left to right, and upward.”

The photo, that was part of the original post, contains addition text about the shooting. The picture also has ‘Kadhar Bailey’s’ name in the upper left side of the picture.

I believed at the time, and now, this social media post to be protected first amendment speech. It was certainly not written with malicious intent.

**QUESTION 2**

On page 59 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“He was leaning over the center console into passenger seat to check on Amber when Lt Ireland shot him in the back. Bullet entered where back, shoulders and neck come together and travel in an upward progression.”

43a

*Appendix C*

At the time you made the assertion that “[h]e was leaning over the center console into passenger seat to check on Amber when Lt Ireland shot him in the back. Bullet entered where back, shoulders and neck come together and travel in an upward progression,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “[h]e was leaning over the center console into passenger seat to check on Amber when Lt Ireland shot him in the back. Bullet entered where back, shoulders and neck come together and travel in an upward progression”? Please also briefly explain how those facts became known to you.

**ANSWER:**

This was not a social media post. This was a response to a comment made on the social media post referred to in question one (1) above. The screen shots of the actual comments are as follows:

Page	Comments	Page	Comments	Page	Comments
 <b>Jeffrey Blake</b> Actually it clearly stated that the entrance wound is in the back of the neck at C5. <small>1y Like Reply</small>	 <b>Jeffrey Blake</b> C5 is almost 6" BELOW the head. You could be right about everything else, but all anyone would see is that a blatant disregard for clear fact is present. I'm simply stating that you are hurting your case. <small>1y Like Reply</small>	 <b>Jo Bridgham Gray</b> The C5 is quite a bit below the back of the head- closer to the shoulder blades. Which really makes one wonder how a bullet entered there, esp if there was a head rest. <small>1y Like Reply</small>			
 <b>Joshua Gray, PI - NSI Surveillance &amp; Investigation</b> Yep, back of head <small>1y Like Reply</small>	 <b>Joshua Gray, PI - NSI Surveillance &amp; Investigation</b> Back of neck / back of head. Same difference. He was shot in back. But I appreciate the advice. <small>1y Like Reply</small>	 <b>Joshua Gray, PI - NSI Surveillance &amp; Investigation</b> He was leaning over the center console into passenger seat to check on Amber when Lt Ireland shot him in back. Bullet entered where back, shoulders and neck come together and travel in an upward progression. <small>1y Like Reply</small>			
 <b>Jeffrey Blake</b> C5 is almost 6" BELOW the head. You could be right about everything else, but all anyone would see is that a blatant disregard for clear fact is present. I'm simply stating that you are	 <b>Jo Bridgham Gray</b> The C5 is quite a bit below the back of the head- closer to the shoulder blades. Which really makes one wonder how a bullet entered there, esp if there was a head rest.	 <small>Reply as Joshua Gray, PI - NSI Surveillance &amp; Investigation</small>			
    	    	    			
    	    	    			

*Appendix C*

This is my opinion and not a 'fact' as suggested in the question. The comments were made as part of a conversation with Jeffrey Blake and Jo Bridgham Gray about a social media post. When you put the comment in context with the conversation, you can see that I was specifically responding to information written by the commenters and expressing my opinion based on the context of the conversation. In addition, I was expressing an opinion that was informed by the picture of the medical examiners report. My opinion was based on the information available to me at the time.

I believed at the time, and now, this comment to be protected first amendment speech. It was not written with malicious intent. Most reasonable people assume that comments made on social media are the opinion of the person who writes the comment.

**QUESTION 3**

On page 63 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page in reference to a photo:

"Bottom is when a Possible [sic] drunk, off duty and corrupt Lt Scott Ireland of Maine State Police murdered Amber Fagre who was the passenger in the vehicle on the bottom and was not a threat to him."

*Appendix C*

At the time you made the assertion that LT Scott Ireland was “[p]ossible [sic] drunk,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland was “[p]ossible [sic] drunk”? Please also briefly explain how those facts became known to you

**ANSWER:**

Here is the actual Facebook Post:

47a

*Appendix C*

 **Joseph Gray, III - Not Guilty** ...

**Investigation**

November 15, 2017 · 

Look at the difference in windshields. Top is recent police shooting in California. Bottom is when a Possible drunk, off duty and corrupt Lt Scott Ireland of Maine State Police murdered Amber Fagre who was the passenger in the vehicle on the bottom and was not a threat to him.

Verizon LTE 10:32 AM 19% 

Notes    



What a vehicle look like when police shoot and kill a threatening driver.



48a

*Appendix C*

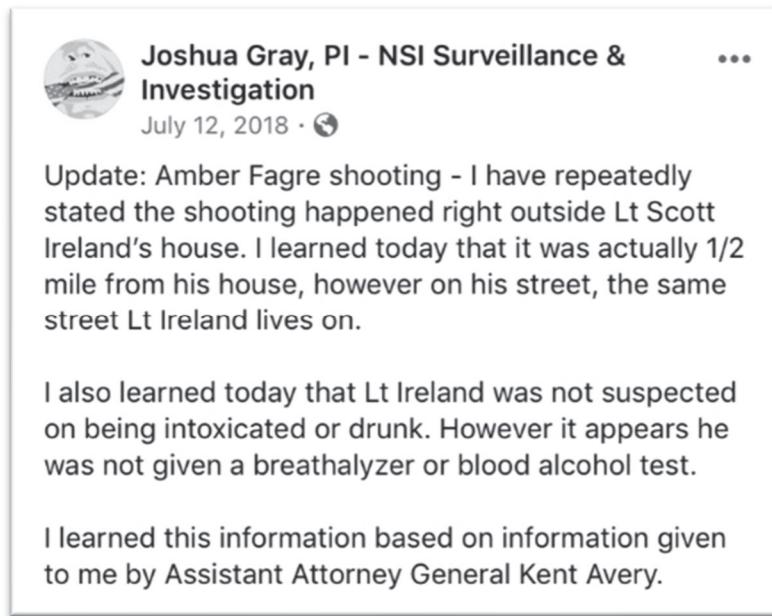


This is my opinion and not a 'fact' as suggested in the question.

I expressed my opinion that Lt Ireland was 'Possible drunk'. This opinion was based on information that Lt

*Appendix C*

Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right & bottom pictures)



Joshua Gray, PI - NSI Surveillance & Investigation · July 12, 2018 · [•](#)

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

*Appendix C*

STATEMENT	SOURCE/FINDING
“Look at the difference in windshields. Top is recent police shooting in California. Bottom is when a Possible drunk, off duty and corrupt Lt Scott Ireland of Maine State Police murdered Amber Fagre who was the passenger in the vehicle on the bottom and was not a threat to him.”	DIR. MacMaster; Det. Gioia: Gray is making a false comparison from a shooting in California to the Vassalboro shooting. In addition, Det. Gioia met with Lt. Ireland almost immediately upon his arrival to the scene and detected nothing that would indicate any alcohol use. Also, as stated earlier, Lt. Ireland did not shoot and kill Fagre.
“What a vehicle looks like when a possibly drunk Lt Scott Ireland murders a passenger.”	DIR. MacMaster; Det. Gioia: Det. Gioia met with and interviewed Lt. Ireland. He detected nothing that would indicate any alcohol use.

While the State did not think he was drunk based on ‘detecting nothing that would indicate alcohol use’, it seems that no scientific tests were conducted to confirm that. Scientific test of all police involved in this shooting would have eliminated this “possible” opinion.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

**QUESTION 4**

On page 63 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page in reference to a photo:

“Bottom is when a Possible [sic] drunk, off duty and corrupt Lt Scott Ireland of Maine State Police murdered Amber Fagre who was the passenger in the vehicle on the bottom and was not a threat to him.”

At the time you made the assertion that LT Scott Ireland “murdered Amber Fagre,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 15 November 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “murdered Amber Fagre”? Please also briefly explain how those facts became known to you.

**ANSWER:**

I did initially think that Lt Ireland Shot Amber Fagre. When I learned that Trooper Parks actually shot her, I immediately updated that information on social media with the following post. (see picture to right)

## Appendix C

 **Joshua Gray, PI - NSI Surveillance & Investigation** ...

March 8, 2018 · 

**Here is final AG report on Amber Fagre's death.**  
**Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong. The report generates more questions than it answers.**

3:45 PM 3/8/2018 529  
**20170210\_Ireland et al\_Vassalboro.pdf**

**JANET T. MILLS**  
**ATTORNEY GENERAL**  
**EL (207) 623-8880**  
**TY (207) 623-8880 CALL ANDIE RELAY 771**

**STATE OF MAINE**  
**OFFICE OF THE ATTORNEY GENERAL**  
**6 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333-0006**

March 5, 2018

Col. Robert A. Williams  
Maine State Police  
42 State House Station  
Augusta, ME 04333

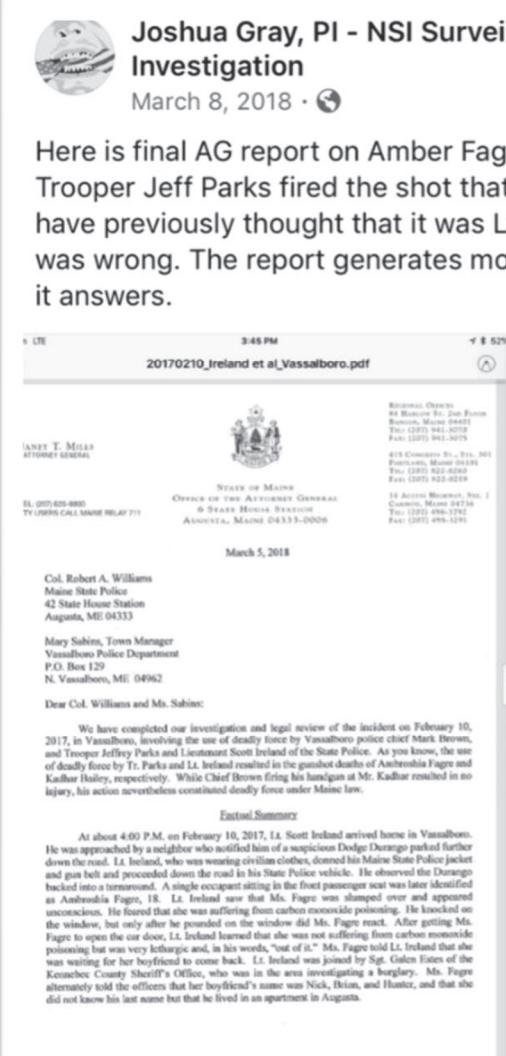
Mary Sabine, Town Manager  
Vassalboro Police Department  
P.O. Box 129  
N. Vassalboro, ME 04962

Dear Col. Williams and Ms. Sabine:

We have completed our investigation and legal review of the incident on February 10, 2017, in Vassalboro, involving the use of deadly force by Vassalboro police chief Mark Brown, and Lt. Jeff Parks and Lt. Scott Ireland of the State Police. As you know, the use of deadly force by Tr. Parks and Lt. Ireland resulted in the gunshot deaths of Ambrishia Fagre and Kadhar Bailey, respectively. While Chief Brown firing his handgun at Mr. Kadhar resulted in no injury, his action nevertheless constituted deadly force under Maine law.

**Factual Summary**

At about 4:00 P.M. on February 10, 2017, Lt. Scott Ireland arrived home in Vassalboro. He was approached by a neighbor who notified him of a suspicious Dodge Durango parked further down the road. Lt. Ireland, who was wearing civilian clothes, donned his Maine State Police jacket and gun belt and proceeded down the road in his State Police vehicle. He observed the Durango backed into a turnaround. A single occupant sitting in the front passenger seat was later identified as Ambrishia Fagre, 18. Lt. Ireland saw that Ms. Fagre was slumped over and appeared unconscious. He feared that she was suffering from carbon monoxide poisoning. He knocked on the window, but only after he knocked on the window did Ms. Fagre react. After entering Ms. Fagre to open the door, Lt. Ireland told her that she was not suffering from carbon monoxide poisoning, but was very lethargic and, in his words, "out of it." Ms. Fagre told Lt. Ireland that she was waiting for her boyfriend to come back. Lt. Ireland was joined by Sgt. Galen Gates of the Kennebec County Sheriff's Office, who was in the area investigating a burglary. Ms. Fagre alternately told the officers that her boyfriend's name was Nick, Blion, and Hunter, and that she did not know his last name but that he lived in an apartment in Augusta.

I initially assumed Lt Ireland fired the shot that killed Amber Fagre based on the information I had available to me at the time. Notably the shooting happened near

*Appendix C*

Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 5**

On page 72 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“[LT Scott Ireland’s] crime spree will continue until he is held accountable.”

At the time you made the assertion that LT Scott Ireland’s “crime spree will continue,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 24 April 2017), on what facts known to you were you basing the assertion that LT Scott Ireland’s “crime spree will continue”? Please also briefly explain how those facts became known to you.

*Appendix C***ANSWER:**

Here is the original post: (see picture to right)



**Joshua Gray, PI - NSI Surveillance &  
Investigation**

April 24, 2017 · 

...

Most insurance fraud cases start with a legitimate claim. The claimant just gets comfortable with collecting benefits and it turns into fraud. Likewise, most dirty cops start out with the best intentions, they get frustrated with all the politics and inefficient court system and start taking the law into their own hands. This is what happened to Lt Scott Ireland and Det David Pelletier at Maine State Police. They crossed over to the dark side years ago and now should be considered armed and dangerous. Lt. Ireland has intimidated suspects, retaliated against people that won in court and murdered Amber Fagre. His crime spree will continue until he is held accountable in the court system. He must be charged and given a fair trial. This is more than his victims got, but is the only way.

This is my opinion and not a 'fact' as suggested in the question.

As you can see, this quote is part of a much longer post that is not mentioned in the question. Cutting up the actual social media post and asking a question based on partial information seems disingenuous at best. The longer post answers your question.

*Appendix C*

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 6**

On page 73 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page in reference to a photo:

“The dead end, narrow street that Amber Fagre was murdered on. This is the same street her killer, Lt Scott Ireland, lives on.”

At the time you made the assertion that LT Scott Ireland was the “killer” of the late Ms. Fagre, what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 18 April 2017), on what facts known to you were you basing the assertion that LT Scott Ireland was the “killer” of the late Ms. Amber Fagre? Please also briefly explain how those facts became known to you.

*Appendix C***ANSWER:**

Here is the actual post: (see picture to right)

 **Joshua Gray, PI - NSI Surveillance & Investigation** ...

April 18, 2017 · 

The dead end, narrow street that Amber Fagre was murdered on. This is the same street her killer, Lt Scott Ireland, lives on. Was he on duty? Was he drinking? Did he use his personal vehicle? Why did police leave that detail out of official statement? Why won't they produce evidence that he was given a blood test for drugs or alcohol? So many questions, so few answers!!



*Appendix C*

This is my opinion and not a ‘fact’ as suggested in the question.

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles. When I learned that Lt Ireland did not shoot Amber Fagre, I posted the following correction on 3/8/18 “ . . . Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong . . . ”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 7**

On page 73 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page in reference to a photo:

“The dead end, narrow street that Amber Fagre was murdered on. This is the same street her killer, Lt Scott Ireland, lives on.”

At the time you made the assertion that “[t]his is the same street . . . Lt Scott Ireland[] lives on,” what was

*Appendix C*

the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 18 April 2017), on what facts known to you were you basing the assertion that “[t]his is the same street . . . Lt Scott Ireland[] lives on”? Please also briefly explain how those facts became known to you.

**ANSWER:**

This is the same social media post from question 6. This is my opinion and not a ‘fact’ as suggested in the question.

I believe that I learned Lt Ireland lived on the same street as the shooting using public information that is readily available to anyone via online search engines.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 8**

On page 76 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page in reference to a photo:

“Pictured is a very dirty & evil cop name Lt. Scott Ireland. His latest crime was the killing of Amber Fagre.”

*Appendix C*

At the time you made the assertion that “the killing of Amber Fagre” was LT Scott Ireland’s “latest crime,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 29 March 2017), on what facts known to you were you basing the assertion that “the killing of Amber Fagre” was LT Scott Ireland’s “latest crime”? Please also briefly explain how those facts became known to you.

**ANSWER:**

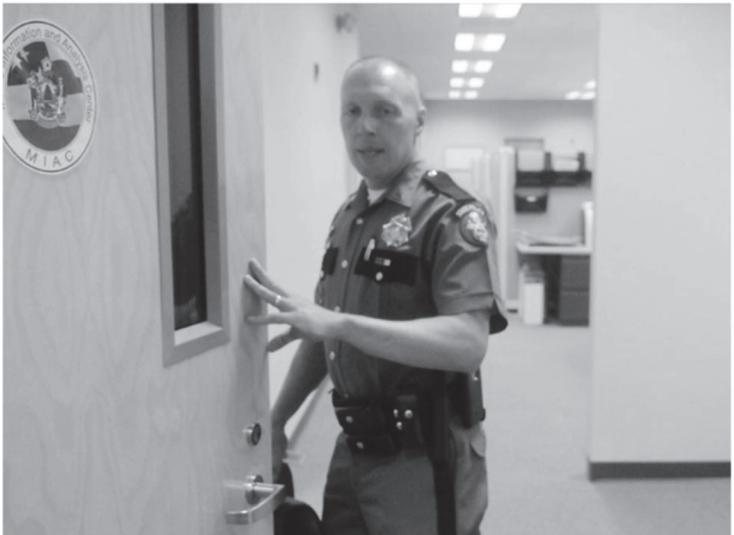
Here is the actual Post:

60a

*Appendix C*

 Joshua Gray, PI - NSI Surveillance & Investigation · ...  
March 29, 2017 · 

The worst thing about dirty cops, they justify their police sanctioned crime spree with misguided ideas of Justice. The only thing worse than a dirty cop is a child molester. Pictured is a very dirty & evil cop named Lt. Scott Ireland. His latest crime was the killing of Amber Fagre.



This is my opinion and not a 'fact' as suggested in the question.

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. . Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior

*Appendix C*

complaints about Lt Ireland and he was named as a shooter in several newspaper articles. When I learned that Lt Ireland did not shoot Amber Fagre, I posted the following correction on 3/8/18 “ . . . Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong . . . ”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 9**

On page 78 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“I am now receiving lawsuit threats for warning people about Dirty State Trooper Lt Scott Ireland who has been named the primary shooter in the death of Amber Fagre.”

At the time you made the assertion that LT Scott Ireland was “named the primary shooter in the death of Amber Fagre,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 28 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland was “named the primary shooter in

62a

### *Appendix C*

the death of Amber Fagre"? Please also briefly explain how those facts became known to you.

#### **ANSWER:**

Here is the actual Post:



Joshua Gray, PI - NSI Surveillance & Investigation

February 28, 2017 · 

I am now receiving lawsuit threats for warning people about Dirty State Trooper Lt Scott Ireland who has been named the primary shooter in the death of Amber Fagre. I predicted he would kill in 2015. I tried to warn them.

37 426 525

Joshua Gray @DectactiveJosh · 21 Sep 2015

It's only a matter of time before these troopers kill an innocent person.

Warn your friends and share this article!

5 Victims Now Say Maine State Police violated rights.

By Joshua Gray, PI from Boston, Mass. There are now five victims, that I am aware of, who have been wronged by the same Maine State Police ...

[linkedin.com](http://linkedin.com)

*Appendix C*

This is my opinion and not a ‘fact’ as suggested in the question.

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. . Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles. When I learned that Lt Ireland did not shoot Amber Fagre, I posted the following correction on 3/8/18 “ . . . Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong . . . ”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 10**

On page 84 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Lt. Scott Ireland has been on a police sanctioned crime spree for the past two decades.”

At the time you made the assertion that LT Scott Ireland “has been on a police sanctioned crime spree for the past two decades,” what was the factual basis of the

64a

*Appendix C*

assertion? In other words, at the time you made that assertion (namely, on or about 17 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “has been on a police sanctioned crime spree for the past two decades”? Please also briefly explain how those facts became known to you.

**ANSWER**

Here is the Facebook post





**Joshua Gray, PI - NSI Surveillance &  
Investigation**

...

February 17, 2017 · 

Lt. Scott Ireland has been on a police sanctioned crime spree for the past two decades. From intimidation, to misapplying the law and now murder. This dirty cop can not continue to walk free, he MUST be charged this time.

This opinion is based on prior complaints filed against Lt Ireland with the State Police and postings on social media by people complaining about Lt Ireland using his position to intimidate people. Including several YouTube videos.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

**QUESTION 11**

On page 85 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“One of the officers involved is a dirty cop who has a history of internal affairs and civilian complaints. He is Lt Scott Ireland.”

At the time you made the assertion that LT Scott Ireland “has a history of internal affairs and civilian complaints,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland “has a history of internal affairs and civilian complaints”? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is the actual post:

*Appendix C*

**Joshua Gray, PI - NSI Surveillance &  
Investigation**

February 17, 2017 ·

...

Update on Death of Ambroshia Fagre:

I can tell you that the police story is full of holes and they are going to cover up the truth. I want to make sure that does not happen, but it will be hard. It appears that Miss Fagre was not involved in any of the crimes that day and was possibly just getting a ride from a stranger on a cold winter day. One of the officers involved is a dirty cop who has a history of internal affairs and civilian complaints. He is Lt Scott Ireland. He also lives on the road the shooting happened and was most likely not on duty and possibly drinking. Lt. Ireland has a history of violating peoples constitutional and civil rights by subverting due process and making himself judge, jury and executioner. He was possibly good friends with the man who was robbed earlier in the day and his emotions were running high. He did not want his friends burglar to get off on a technicality and so he took the law into his own hands and committed First Degree Murder of Ambroshia Fagre and Kadhar Bailey.

I am confident that is what happened, the problem is that Lt. Ireland is protected at all levels. He always manages to get cleared by Internal Affairs Lt. Anna Love. He is friends with Attorney General Investigator Brian MacMaster. The only chance of Justice, is for the FBI to take over the investigation, however they are unlikely to do this without significant pressure. I tried to warn people about this dirty cop for years, nobody listened. I spent over \$15,000 of my own money trying to prevent this from happening by researching and writing articles and posting on blogs. But the Maine State Police, Maine Attorney General and Maine Governor Paul LePage would not listen.

*Appendix C*

This is my opinion and not a 'fact' as suggested in the question.

You can see that a significant portion of this social media post is not included in the question.

I have made an internal affairs complaint about Lt Ireland. I have heard of others that made complaints about Lt Ireland. There is at least one YouTube video of a Maine citizen making a complaint against Lt Ireland. I informed Lt Anna Love during my internal affairs complaint there were others who shared my concerns. I sincerely believed then, and now, that Lt Ireland has a history of internal affairs complaints. I never said the complaints were sustained or not sustained. In fact I wrote in this post "He always manages to get cleared by internal affairs . . ."

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 12**

On page 85 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page in reference to a photo:

"Here is a picture of Ambroshia Fagre, 18 the young girl Lt. Scott Ireland Killed outside his house. . . ."

*Appendix C*

At the time you made the assertion that LT Scott Ireland “Killed” the late Ms. Amber Fagre, what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 16 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “Killed” the late Ms. Amber Fagre? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is the actual social media post:

69a

*Appendix C*

 **Joshua Gray, PI - NSI Surveillance & Investigation** ...  
February 16, 2017 · 

Here is a picture of Ambroshia Fagre, 18 the young girl Lt. Scott Ireland Killed outside his house on Arnold Rd in Vassalboro, Maine. There is more to this story than is being reported in the news. I have already uncovered some significant problems with the official story. It sure is to bad they killed this witness. Dead People Don't talk. But the truth has a funny way of surfacing.



This is my opinion and not a 'fact' as suggested in the question.

*Appendix C*

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles. When I learned that Lt Ireland did not shoot Amber Fagre, I posted the following correction on 3/8/18 “ . . . Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong . . . ”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 13**

On page 147 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“I have been in contact with some family members and know for a fact they want justice. They sent me the report.”

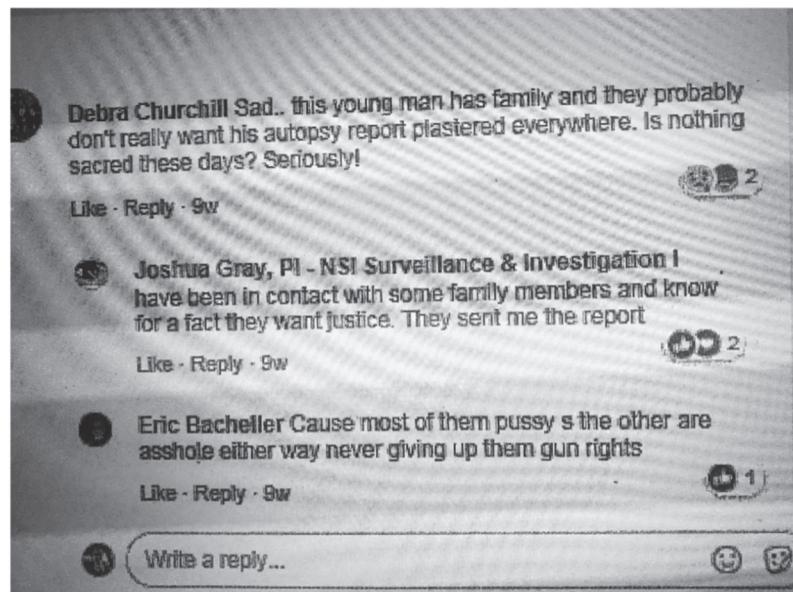
At the time you made the assertion that you “have been in contact with some family members and know for a fact they want justice. They sent me the report,” what was the factual basis of the assertion? In other

*Appendix C*

words, at the time you made that assertion, on what facts known to you were you basing the assertion that you “have been in contact with some family members and know for a fact they want justice. They sent me the report”? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is a screen shot of the Statement.



This was not a social media post. This was a comment. I was replying to a comment from Debra Churchill. When you read the comment in context, it offers the answer to the States question. Debra Churchill was suggesting the family would not want information posted about their deceased relative and I was

*Appendix C*

answering her. ‘The report’ mentioned in this comment, refers to the Medical Examiners report. However I should clarify that I was only sent a picture of part of the report.

I believed at the time, and now, this comment to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 14**

On page 158 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page in reference to a photo:

“What a vehicle looks like when a possibly drunk Lt Scott Ireland murders a passenger.”

At the time you made the assertion that LT. Ireland was “possibly drunk,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 15 November 2017), on what facts known to you were you basing the assertion that LT. Ireland was “possibly drunk”? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is the actual Post:

73a

*Appendix C*

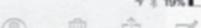
 **Joshua Gray, FBI - FBI Surveillance** ...

**Investigation**

November 15, 2017 • 

Look at the difference in windshields. Top is recent police shooting in California. Bottom is when a Possible drunk, off duty and corrupt Lt Scott Ireland of Maine State Police murdered Amber Fagre who was the passenger in the vehicle on the bottom and was not a threat to him.

Verizon LTE 10:32 AM 19% 

Notes 



What a vehicle look like when police shoot and kill a threatening driver.



74a

*Appendix C*

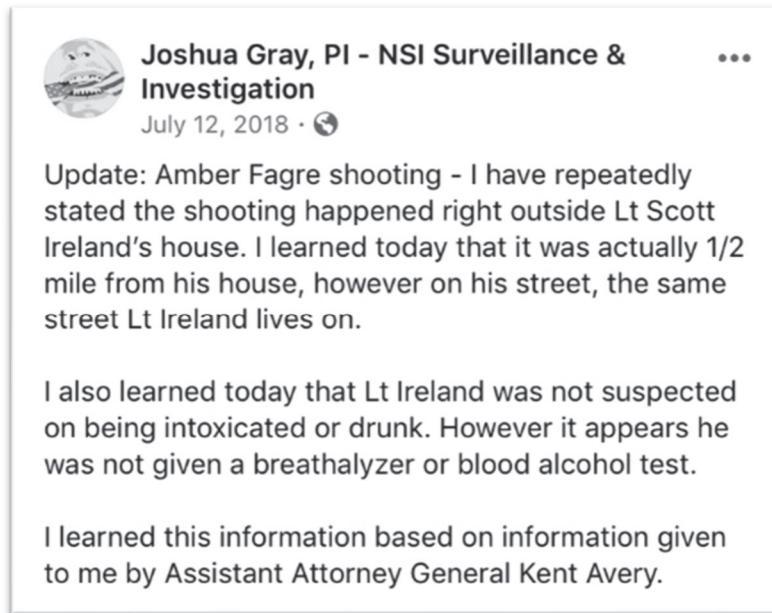


See following page for complete answer

This is my opinion and not a 'fact' as suggested in the question.

*Appendix C*

I expressed my opinion that Lt Ireland was 'Possible drunk'. This opinion was based on information that Lt Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right & bottom pictures)



**Joshua Gray, PI - NSI Surveillance & Investigation** July 12, 2018 • 0

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

While the State did not think he was drunk based on 'detecting nothing that would indicate alcohol use', it seems that no scientific tests were conducted to confirm that. Scientific test of all police involved in this shooting would have eliminated this "possible" opinion.

*Appendix C*

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 15**

On page 159 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“It takes a viral video and public outrage for police to be held accountable. Without the video and public pressure, this corrupt cop would continue his crime spree and possibly get a promotion. Much like Maine Troopers Lt Scott Ireland and Det. David Pelletier who do this kind of stuff on a daily basis.”

At the time you made the assertion that LT Ireland “do[es] this kind of stuff on a daily basis,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 2 November 2017), on what facts known to you were you basing the assertion that LT Ireland “do[es] this kind of stuff on a daily basis”? Please also briefly explain how those facts became known to you.

**ANSWER:**

Here is the actual social media post.

77a

*Appendix C*

 **Joshua Gray, PI - NSI Surveillance & Investigation** ...  
November 2, 2017 · 

It takes a viral video and public outrage for police to be held accountable. Without the video and public pressure, this corrupt cop would continue his crime spree and possibly get a promotion. Much like Maine Troopers Lt Scott Ireland and Det. David Pelletier who do this kind of stuff on a daily basis.



 **TRIBUNIST**  
**Nurse Arrested for Refusing to Let Officer Draw Blood from Her Patient Just Got a Massive Settlem...**

This is my opinion and not a 'fact' as suggested in the question. I was making a comment on a viral video about a nurse who was arrested for refusing to take blood from an unconscious man. I am entitled to have an opinion. This opinion was based on prior

*Appendix C*

complaints, YouTube videos and several newspapers articles.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 16**

On page 160 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Despite all my efforts, on February 10 2017, [LT Scott Ireland] murdered an innocent 18 year old girl.”

At the time you made the assertion that LT Scott Ireland “murdered an innocent 18 year old girl,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 19 September 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “murdered an innocent 18 year old girl”? Please also briefly explain how those facts became known to you.

79a

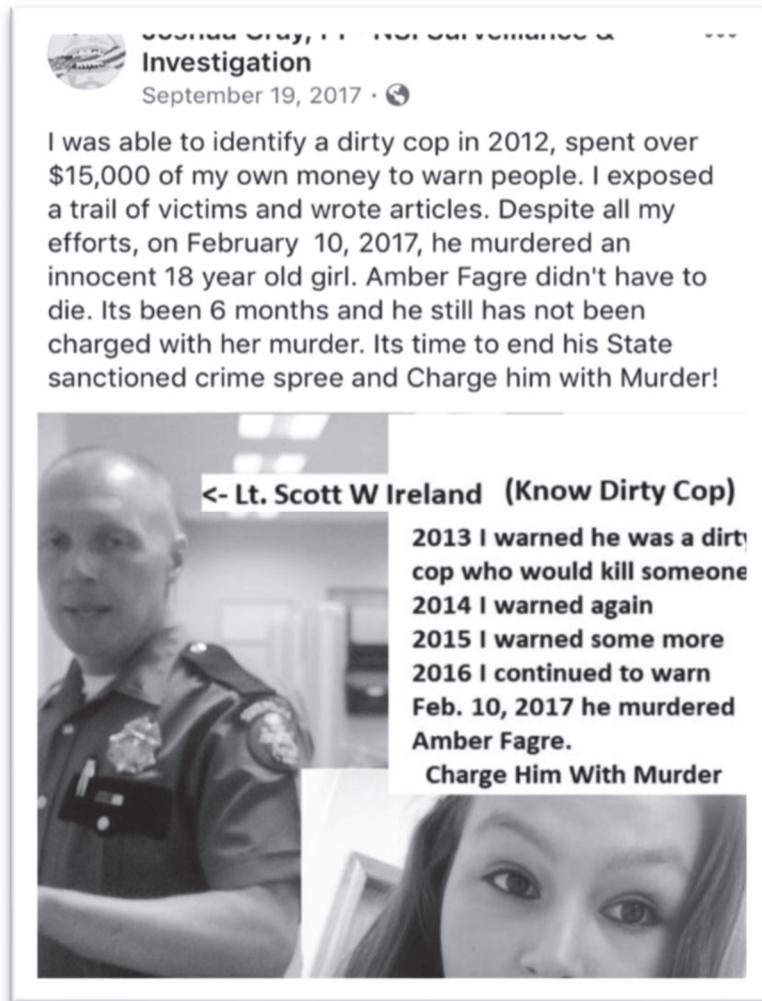
*Appendix C*

**ANSWER:**



80a

*Appendix C*



Susanna Gray, ... · 11 hours ago · [Report content](#) · [Edit post](#)

**Investigation**

September 19, 2017 · [Report content](#)

I was able to identify a dirty cop in 2012, spent over \$15,000 of my own money to warn people. I exposed a trail of victims and wrote articles. Despite all my efforts, on February 10, 2017, he murdered an innocent 18 year old girl. Amber Fagre didn't have to die. Its been 6 months and he still has not been charged with her murder. Its time to end his State sanctioned crime spree and Charge him with Murder!

**<- Lt. Scott W Ireland (Know Dirty Cop)**

2013 I warned he was a dirty cop who would kill someone  
2014 I warned again  
2015 I warned some more  
2016 I continued to warn  
Feb. 10, 2017 he murdered Amber Fagre.  
Charge Him With Murder



This is my opinion and not a 'fact' as suggested in the question.

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal

*Appendix C*

residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles. When I learned that Lt Ireland did not shoot Amber Fagre, I posted the following correction on 3/8/18 “ . . . Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong . . . ”I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 17**

On page 161 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Also this [namely, a use of deadly force incident that involved LT Scott Ireland] happened right outside Lt Irelands personal residence! He was off duty at the time and possible [sic] drunk.”

At the time you made the assertion that “this happened outside Lt Irelands personal residence,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “this happened outside Lt Irelands personal residence”?

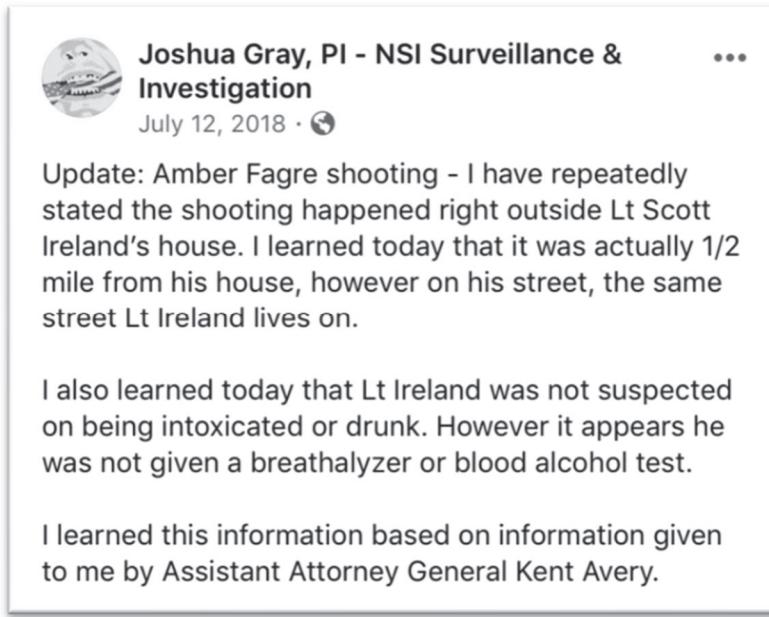
*Appendix C*

Please also briefly explain how those facts became known to you.

**ANSWER:**

This is my opinion and not a 'fact' as suggested in the question.

The State confirmed that it happened  $\frac{1}{2}$  mile down the road from his house. I posted this correction immediately after learning this information: (see picture to right)



**Joshua Gray, PI - NSI Surveillance & Investigation** July 12, 2018 · 

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

I posted this opinion based on the information that was available to me at the time. Namely that Lt Ireland lived on the same road, it was a short dead end road and it was in a semi-rural area. Meaning that up to one

*Appendix C*

(1) mile from the house would be considered ‘right outside your house’ in my opinion. I certainly did not have malicious intentions.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 18**

On page 161 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Also this happened right outside Lt Irelands personal residence! He was off duty at the time and possible [sic] drunk.”

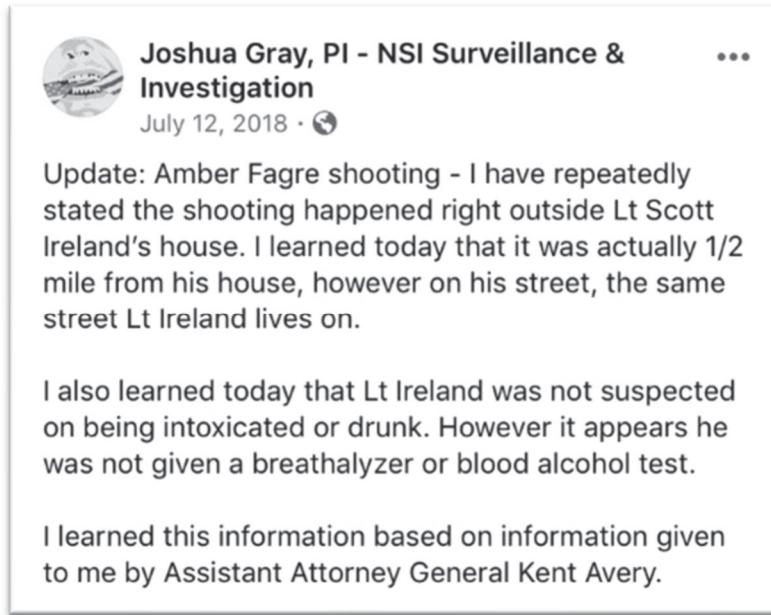
At the time you made the assertion that LT Scott Ireland was “possible [sic] drunk,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland was “possible [sic] drunk”? Please also briefly explain how those facts became known to you.

**ANSWER:**

This is my opinion and not a ‘fact’ as suggested in the question.

*Appendix C*

I expressed my opinion that Lt Ireland was 'Possible drunk'. This opinion was based on information that Lt Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. I never stated that he was drunk. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right)



**Joshua Gray, PI - NSI Surveillance & Investigation** · July 12, 2018

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

While the State did not think he was drunk based on 'detecting nothing that would indicate alcohol use', it seems that no scientific tests were conducted to confirm that. Scientific test of all police involved in this shooting would have eliminated this "possible" opinion.

*Appendix C*

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 19**

On page 161 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Over two dozen people have come forward claiming Lt Ireland violated their rights. . . . He has a history of threatening people, internal affairs trouble and now suspensions.”

At the time you made the assertion that LT Scott Ireland has “suspensions,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland has “suspensions”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. However specifically pertaining to suspensions. I have always been under the impression that when an officer is placed under an internal affairs

*Appendix C*

investigation, they are suspended or placed on modified desk duty. This was my sincerely held belief at the time and now. I was also told that Lt Ireland had been placed on paid administrative leave until the conclusion of the AG's investigation into the shooting.

As to the word 'suspensions', that is a typo, it should have been the word "suspension", but again it is my understanding that as a police officer, if you fire your weapon and kill someone, you are placed on suspension with pay until the outcome of the investigation.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 20**

On page 162 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

"The bullet trajectories clearly show the cops were not in front of the vehicle. They were well off to the side and out of danger. Not to mention Lt Ireland was most likely drunk!!!"

At the time you made the assertion that the "bullet trajectories clearly show the cops were not in front of the vehicle," what was the factual basis of the assertion?

*Appendix C*

In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that the “bullet trajectories clearly show the cops were not in front of the vehicle”? Please also briefly explain how those facts became known to you

**ANSWER:**

This is my opinion and not a ‘fact’ as suggested in the question. This opinion was based on looking at some pictures that were sent to me. I also showed them to some other PI friends. I posted about this on April 5, 2017:

*Appendix C*

 **Joshua Gray, PI - NSI Surveillance & Investigation** • ...  
April 5, 2017 • 

Update on Amber Fagre Killing: The police story just collapsed completely. Here is irrefutable proof the police were NOT in front of the vehicle, could not possibly be in fear for their lives and nothing was rammed. The official police story is complete fiction. Share this with all your friends. We can't let them get away with it. (NOTE: there are more inconsistencies that I will get into in a later post)

---



**Shooter**

---

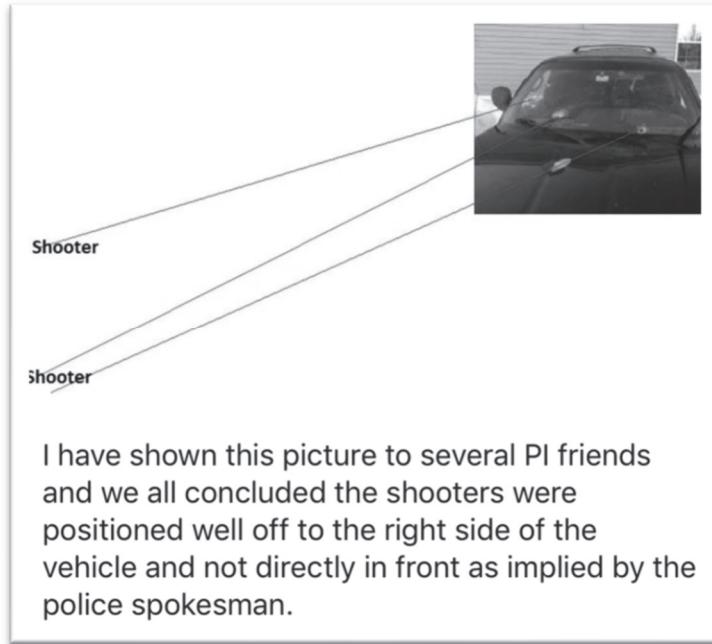






89a

*Appendix C*



**Passenger Side**

**Driver Side**

It appears additional shots entered through the passenger side window. These were believed to be the fatal shots that killed Amber Fagre. The police were clearly not in any danger when these shots were taken. This also does not line up with the statements given by the police spokesman.

90a

*Appendix C*



## Front Bumper

Minor damage can be observed to the front bumper. This most likely happened after the driver deceased. It could also be damage from a previous impact. It is clearly not significant enough to be from a vehicle ramming a police cruiser as implied by the police spokesman.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

**QUESTION 21**

On page 162 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“The bullet trajectories clearly show the cops were not in front of the vehicle. They were well off to the side and out of danger. Not to mention Lt Ireland was most likely drunk!!!”

At the time you made the assertion that “Lt Ireland was most likely drunk,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “Lt Ireland was most likely drunk”? Please also briefly explain how those facts became known to you.

**ANSWER:**

This is my opinion and not a ‘fact’ as suggested in the question.

I expressed my opinion that Lt Ireland was ‘most likely drunk’. This opinion was based on information that Lt Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right)

*Appendix C*



**Joshua Gray, PI - NSI Surveillance & Investigation** · July 12, 2018 · 

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

While the State did not think he was drunk based on 'detecting nothing that would indicate alcohol use', it seems that no scientific tests were conducted to confirm that. Scientific test of all police involved in this shooting would have eliminated this "possible" opinion.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 22**

On page 164 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County

*Appendix C*

Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

"I predicted he [LT Scott Ireland] would kill someone based on previous contact with him. So when he actually killed this 18 year old girl, I felt guilty I had not done more to warn people."

At the time you made the assertion that LT Scott Ireland "actually killed this 18 year old girl," what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland "actually killed this 18 year old girl"? Please also briefly explain how those facts became known to you.

**ANSWER**

I did initially think that Lt Ireland Shot Amber Fagre. When I learned that Trooper Parks actually shot her, I immediately updated that information on social media with the following post. (see picture to right)

## Appendix C

 **Joshua Gray, PI - NSI Surveillance & Investigation** ...

March 8, 2018 · 

**Here is final AG report on Amber Fagre's death.**  
**Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong. The report generates more questions than it answers.**

3:45 PM 3/8/2018 529  
**20170210\_Ireland et al\_Vassalboro.pdf**

**JANET T. MILLS**  
**ATTORNEY GENERAL**  
**EL (207) 623-8880**  
**TY (207) 623-8880 CALL ANDIE RELAY 771**

**STATE OF MAINE**  
**OFFICE OF THE ATTORNEY GENERAL**  
**6 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333-0006**

**March 5, 2018**

Col. Robert A. Williams  
Maine State Police  
42 State House Station  
Augusta, ME 04333

Mary Sabine, Town Manager  
Vassalboro Police Department  
P.O. Box 129  
N. Vassalboro, ME 04962

Dear Col. Williams and Ms. Sabine:

We have completed our investigation and legal review of the incident on February 10, 2017, in Vassalboro, involving the use of deadly force by Vassalboro police chief Mark Brown, and Lt. Jeff Parks and Lt. Scott Ireland of the State Police. As you know, the use of deadly force by Tr. Parks and Lt. Ireland resulted in the gunshot deaths of Ambrishia Fagre and Kadhar Bailey, respectively. While Chief Brown firing his handgun at Mr. Kadhar resulted in no injury, his action nevertheless constituted deadly force under Maine law.

**Factual Summary**

At about 4:00 P.M. on February 10, 2017, Lt. Scott Ireland arrived home in Vassalboro. He was approached by a neighbor who notified him of a suspicious Dodge Durango parked further down the road. Lt. Ireland, who was wearing civilian clothes, donned his Maine State Police jacket and gun belt and proceeded down the road in his State Police vehicle. He observed the Durango backed into a turnaround. A single occupant sitting in the front passenger seat was later identified as Ambrishia Fagre, 18. Lt. Ireland saw that Ms. Fagre was slumped over and appeared unconscious. He feared that she was suffering from carbon monoxide poisoning. He knocked on the window, but only after he knocked on the window did Ms. Fagre react. After entering Ms. Fagre to open the door, Lt. Ireland told her that she was not suffering from carbon monoxide poisoning, but was very lethargic and, in his words, "out of it." Ms. Fagre told Lt. Ireland that she was waiting for her boyfriend to come back. Lt. Ireland was joined by Sgt. Galen Gates of the Kennebec County Sheriff's Office, who was in the area investigating a burglary. Ms. Fagre alternately told the officers that her boyfriend's name was Nick, Blion, and Hunter, and that she did not know his last name but that he lived in an apartment in Augusta.







I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal

*Appendix C*

residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 23**

On page 165 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“The trajectory of the bullets prove they were not in fear for their lives.”

At the time you made the assertion that “[t]he trajectory of the bullets prove they were not in fear for their lives,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “[t]he trajectory of the bullets prove they were not in fear for their lives”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. This opinion was based on looking at some pictures that were sent to me. I also showed them to

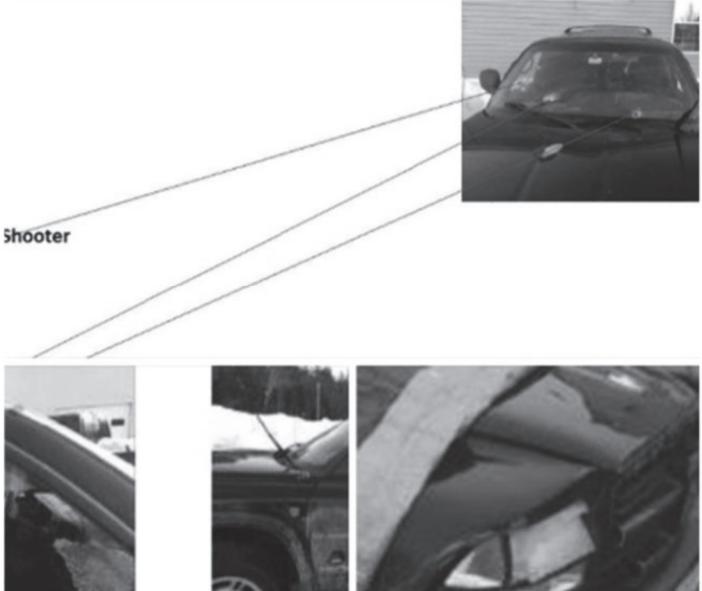
*Appendix C*

some other PI friends. I posted about this on April 5, 2017:

 **JOSHUA GRAY, PI - NSI Surveillance & Investigation** • ...  
April 5, 2017 • 

Update on Amber Fagre Killing: The police story just collapsed completely. Here is irrefutable proof the police were NOT in front of the vehicle, could not possibly be in fear for their lives and nothing was rammed. The official police story is complete fiction. Share this with all your friends. We can't let them get away with it. (NOTE: there are more inconsistencies that I will get into in a later post)

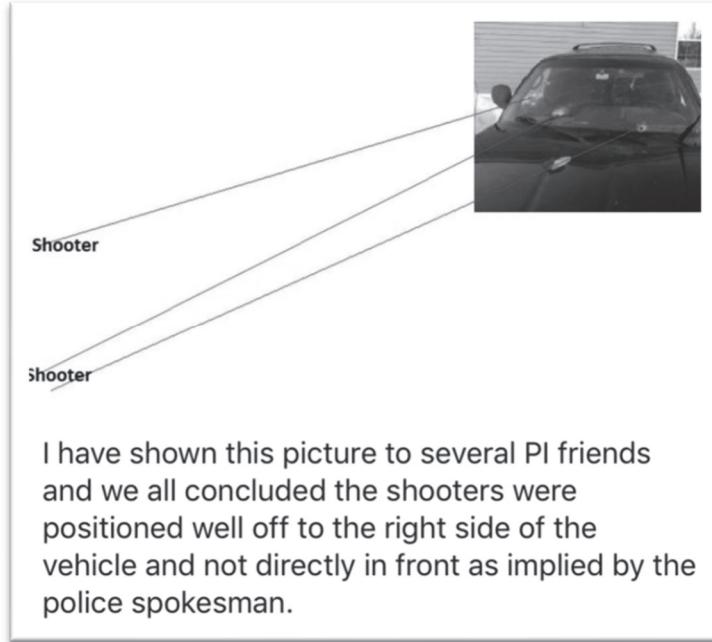
---



Shooter

97a

*Appendix C*



It appears additional shots entered through the passenger side window. These were believed to be the fatal shots that killed Amber Fagre. The police were clearly not in any danger when these shots were taken. This also does not line up with the statements given by the police spokesman.



## Front Bumper

Minor damage can be observed to the front bumper. This most likely happened after the driver deceased. It could also be damage from a previous impact. It is clearly not significant enough to be from a vehicle ramming a police cruiser as implied by the police spokesman.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C***QUESTION 24**

On page 166 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“I have seen the vehicle Amber [Fagre] was in and the damage is not consistent with ramming.”

At the time you made the assertion that you “have seen the vehicle Amber [Fagre] was in and the damage is not consistent with ramming,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that you “have seen the vehicle Amber [Fagre] was in and the damage is not consistent with ramming”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. I had seen a picture of the vehicle. In fact, I shared that picture on social media. It was my opinion at the time the damage in the picture was inconsistent with a vehicle violently ramming another vehicle. When I learned the vehicles did collide with one another, I immediately posted this correction: see picture on right.

*Appendix C*

 Joshua Gray, PI - NSI Surveillance & Investigation

July 12, 2018 · 

Amber Fagre Killing Update: Over the past year I have repeated asked for any proof or pictures that kadhar Bailey actually rammed the police cruiser. Several people told me the police cruiser was not rammed and the photos I received of the car Amber was in did not look like a major accident happened. However today Assistant Attorney General Kent Avery sent me the following black and white pictures that indicate the vehicles did collide. So I would like to correct myself based on this evidence.

---



As you can see in this correction, posted July 12, 2018, I answered the question that is currently being asked. I wrote in the post "over the past year I have

*Appendix C*

repeated(ly) asked for any proof or pictures that Kadhar Bailey actually rammed the police cruiser. Several people told me the police cruiser was not rammed and the photos I received of the car Amber was in did not look like a major accident happened. However today Assistant Attorney General Kent Avery sent me the following black and white pictures that indicate the vehicles did collide. So I would like to correct myself based on this evidence”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 25**

On page 166 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Also the trajectory of the bullets show they came from the right passenger side and not directly in front.”

At the time you made the assertion that “the trajectory of the bullets show they came from the right passenger side and not directly in front,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “the trajectory of the

102a

*Appendix C*

bullets show they came from the right passenger side and not directly in front"? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a 'fact' as suggested in the question. This opinion was based on looking at some pictures that were sent to me. I also showed them to some other PI friends. I posted about this on April 5, 2017:

*Appendix C*

 **Joshua Gray, PI - NSI Surveillance & Investigation** • ...  
April 5, 2017 • 

Update on Amber Fagre Killing: The police story just collapsed completely. Here is irrefutable proof the police were NOT in front of the vehicle, could not possibly be in fear for their lives and nothing was rammed. The official police story is complete fiction. Share this with all your friends. We can't let them get away with it. (NOTE: there are more inconsistencies that I will get into in a later post)

---



**Shooter**

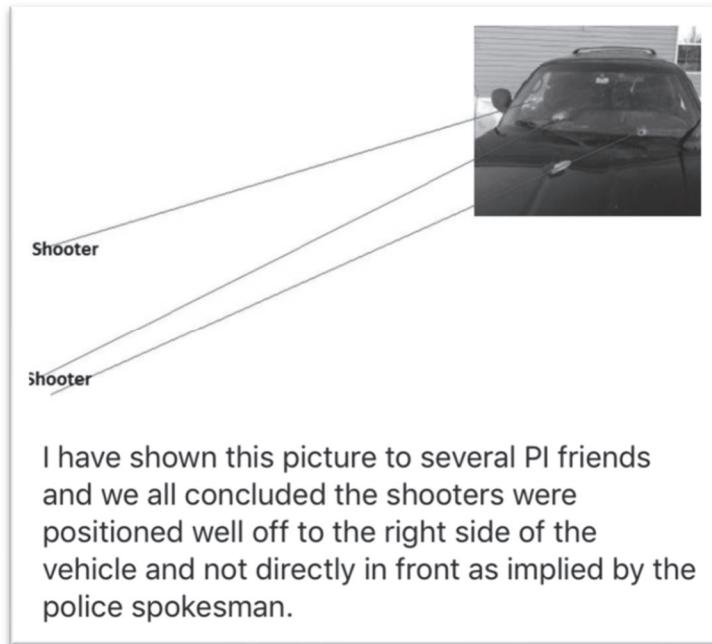
---







## Appendix C



## Passenger Side

### Driver Side

It appears additional shots entered through the passenger side window. These were believed to be the fatal shots that killed Amber Fagre. The police were clearly not in any danger when these shots were taken. This also does not line up with the statements given by the police spokesman.



## Front Bumper

Minor damage can be observed to the front bumper. This most likely happened after the driver deceased. It could also be damage from a previous impact. It is clearly not significant enough to be from a vehicle ramming a police cruiser as implied by the police spokesman.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

**QUESTION 26**

On page 166 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Lt. Ireland has been the subject of multiple internal affairs investigations and now a suspension.”

At the time you made the assertion that LT Scott Ireland “has been the subject of multiple internal affairs investigations,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland “has been the subject of multiple internal affairs investigations”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question.

I have made an internal affairs complaint about Lt Ireland. I have heard of others that made complaints about Lt Ireland. There is at least one YouTube video of a Maine citizen making a complaint against Lt Ireland. I informed Lt Anna Love during my internal affairs complaint there were others who shared my concerns. I sincerely believed then, and now, that Lt

*Appendix C*

Ireland has a history of internal affairs complaints. I never said the complaints were sustained or not sustained. In fact I wrote in one post “He always manages to get cleared by internal affairs . . .”

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 27**

On page 166 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Lt. Ireland has been the subject of multiple internal affairs investigations and now a suspension.”

At the time you made the assertion that LT Scott Ireland “has been the subject of . . . a suspension,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland “has been the subject of . . . a suspension”? Please also briefly explain how those facts became known to you

*Appendix C*

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. However specifically pertaining to suspensions. I have always been under the impression that when an officer is placed under an internal affairs investigation, they are suspended or placed on modified desk duty. This was my sincerely held belief at the time and now. I was also told that Lt Ireland had been placed on paid administrative leave until the conclusion of the AG’s investigation into the shooting. Again it is my understanding that as a police officer, if you fire your weapon and kill someone, you are placed on suspension with pay until the outcome of the investigation.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 28**

On page 168 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Also the bullet holes show trajectories inconsistent with the official police story.”

*Appendix C*

At the time you made the assertion that “the bullet holes show trajectories inconsistent with the official police story,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “the bullet holes show trajectories inconsistent with the official police story”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. This opinion was based on looking at some pictures that were sent to me. I also showed them to some other PI friends. I posted about this on April 5, 2017:

*Appendix C*

 **Joshua Gray, PI - NSI Surveillance & Investigation** • ...  
April 5, 2017 • 

Update on Amber Fagre Killing: The police story just collapsed completely. Here is irrefutable proof the police were NOT in front of the vehicle, could not possibly be in fear for their lives and nothing was rammed. The official police story is complete fiction. Share this with all your friends. We can't let them get away with it. (NOTE: there are more inconsistencies that I will get into in a later post)

---



**Shooter**

---

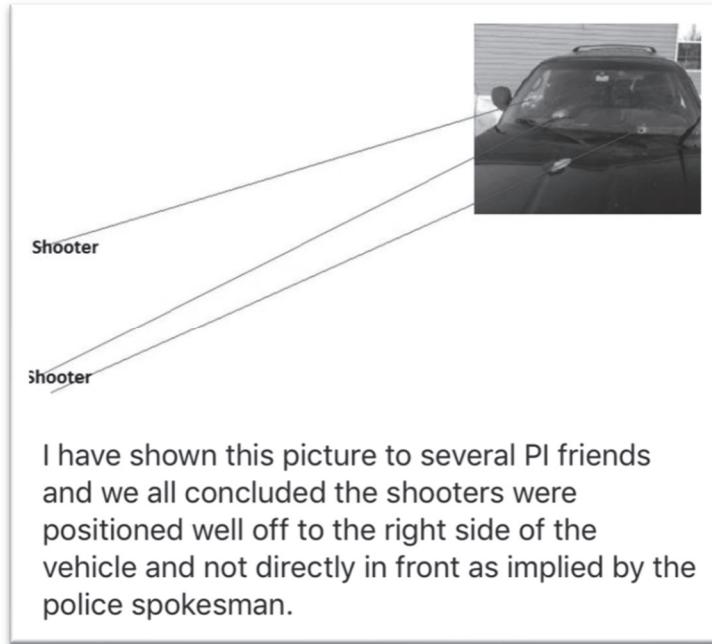






111a

## Appendix C



## Passenger Side

## Driver Side

It appears additional shots entered through the passenger side window. These were believed to be the fatal shots that killed Amber Fagre. The police were clearly not in any danger when these shots were taken. This also does not line up with the statements given by the police spokesman.

112a

*Appendix C*



## Front Bumper

Minor damage can be observed to the front bumper. This most likely happened after the driver deceased. It could also be damage from a previous impact. It is clearly not significant enough to be from a vehicle ramming a police cruiser as implied by the police spokesman.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

**QUESTION 29**

On page 173 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Lt Ireland is currently on paid administrative leave for murdering an 18 year old girl Amber Fagre.”

At the time you made the assertion that LT Scott Ireland was on administrative leave for “murdering an 18 year old girl Amber Fagre,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that LT Scott Ireland was “on paid administrative leave for murdering an 18 year old girl Amber Fagre”? Please also briefly explain how those facts became known to you.

**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question. I have always been under the impression that when an officer is placed under an internal affairs investigation, they are suspended or placed on modified desk duty. This was my sincerely held belief at the time and now. I was also told that Lt Ireland had been placed on paid administrative leave until the conclusion of the AG’s investigation into the shooting. Again it is my understanding that as a police office, if you fire

*Appendix C*

your weapon and kill someone, you are placed on suspension with pay until the outcome of the investigation.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 30**

On page 176 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Lt Scott Ireland and Det. David Pelletier are dirty Maine State Police Troopers. I live in fear for my life because of them. If I end up dead, they did it. Please share.”

At the time you made the assertion that, “[i]f [you] end up dead, [LT Scott Ireland and DET David Pelletier] did it,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “[i]f [you] end up dead, they did it”? Please also briefly explain how those facts became known to you.

*Appendix C*

**ANSWER**

I have been openly critical of both Lt Ireland & Det Pelleteir and just a few months before this posting, I was reminded of the death of Amber Fagre and that bothered me, especially with the knowledge of additional complaints about Lt Ireland & Det Pelletier. I actually do fear for my life based upon complaints and comments I have read about them.

I

**QUESTION 31**

On page 177 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“Lt Ireland has intimidated suspects, retaliated against people that won in court and murdered Amber Fagre.”

At the time you made the assertion that LT Scott Ireland “murdered Amber Fagre,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 24 April 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “murdered Amber Fagre”? Please also briefly explain how those facts became known to you.

## Appendix C

## ANSWER

I did initially think that Lt Ireland Shot Amber Fagre. When I learned that Trooper Parks actually shot her, I immediately updated that information on social media with the following post. (see picture to right)

*Appendix C*

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 32**

On page 180 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“But I will say that a known dirty cop, Lt Scott W Ireland, was the primary shooter AND just happened to live on the street where the shooting happened. I suspect he was off duty and drinking just before this happened.”

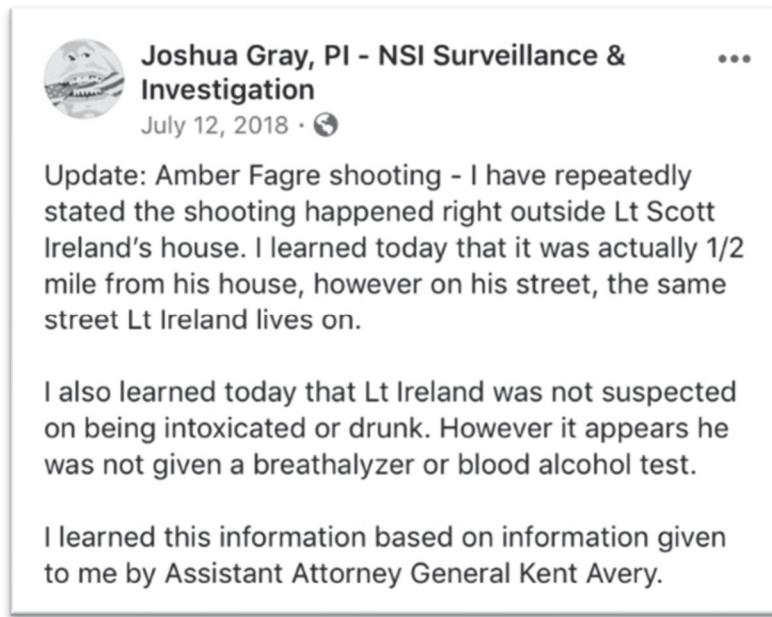
At the time you made the assertion that “you suspect[ed]” that LT Scott Ireland was “drinking just before this happened,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion “you suspect[ed]” that LT Scott Ireland

*Appendix C*

“was “drinking just before this happened”? Please also briefly explain how those facts became known to you.

**ANSWER**

I expressed my opinion that Lt Ireland was ‘I suspect he was off duty and drinking’. This opinion was based on information that Lt Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. I never stated that he was drunk. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right)



**Joshua Gray, PI - NSI Surveillance & Investigation** July 12, 2018

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

While the State did not suspect he was drunk based on ‘detecting nothing that would indicate alcohol use’,

*Appendix C*

it seems that no scientific tests were conducted to confirm that Lt Ireland was not drunk. Scientific test of all police involved in this shooting would have eliminated this opinion.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 33**

On page 182 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“The police claimed he was in a stolen vehicle to help justify the killings. The official police story is 100% fiction.”

At the time you made the assertion that “[t]he official police story is 100% fiction,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that “[t]he official police story is 100% fiction”? Please also briefly explain how those facts became known to you.

*Appendix C*

**ANSWER**

I was informed by the owner of the Dodge Durango that the police report of it being stolen was false. The owner told me that Kadhar Bailey had permission to drive this vehicle. This was my information when I posted this opinion.

**QUESTION 34**

On page 183 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“I am a private investigator from Boston who warned in 2015 that Lt Scott Ireland would kill someone. Everyone ignored my warnings and unfortunately he did exactly what I warned he would do. So I have been looking into the shooting in my spare time. I have already uncovered evidence that proves the official police story is completely false.”

At the time you made the assertion that you were “looking into the shooting in [your] spare time,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you basing the assertion that you were “looking into the shooting in [your] spare time”?

*Appendix C*

Please also briefly explain how those facts became known to you.

**ANSWER**

This quote is a comment and not a social media post. Because I did not look into the shooting while at work, but only in my spare time. I was not hired by anyone and never went into Maine to look into this. I pretty much relied on social media.

**QUESTION 35**

On page 183 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“I am a private investigator from Boston who warned in 2015 that Lt Scott Ireland would kill someone. Everyone ignored my warnings and unfortunately, he did exactly what I warned he would do. So I have been looking into the shooting in my spare time. I have already uncovered evidence that proves the official police story is completely false.”

At the time you made the assertion that you “have already uncovered evidence that proves the official police story is completely false,” what was the factual basis of the assertion? In other words, at the time you made that assertion, on what facts known to you were you

*Appendix C*

basing the assertion that you “have already uncovered evidence that proves the official police story is completely false”? Please also briefly explain how those facts became known to you.

**ANSWER**

This quote is a comment and not a social media post. My comment or opinion was based on information from owner of the Dodge Durango, pictures of Dodge Durango, picture of a portion of the medical report for Kadhar Bailey and the fact there were no scientific tests to determine if there were drinking by police. Once you find holes in a report, you tend to disbelieve the entire report.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

**QUESTION 36**

On page 190 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“Lt Scott Ireland hates it when people get off on a technicality and so he makes himself the judge, jury and executioner. That’s why he executed Amber Fagre in the back of the head in cold blood.”

*Appendix C*

At the time you made the assertion that LT Scott Ireland “executed Amber Fagre in the back of the head in cold blood,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 19 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “executed Amber Fagre in the back of the head in cold blood”? Please also briefly explain how those facts became known to you.

**ANSWER**

I did initially think that Lt Ireland Shot Amber Fagre.

I assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles

The basis of my opinion was from Newspaper reports indicataing that Lt. Ireland was a shooter in an incident that killed Kadhar and Amber; verbal reports from a close friend of Amber Fagre on her injuries, photo's of the Dodge Durango as to show trajectory of bullets fired by police and medical records on injuries to Kadhar Bailey also Amber Fagre.was not in the possession weapon.

When I learned that Trooper Parks actually shot her, I immediately updated that information on social media with the following post. (see picture to right)

## Appendix C

**Joshua Gray, PI - NSI Surveillance & Investigation**

March 8, 2018 • 

Here is final AG report on Amber Fagre's death. Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong. The report generates more questions than it answers.

3:45 PM 5/27  
20170210\_Ireland et al\_Vassalboro.pdf

JANET T. MILLS  
ATTORNEY GENERAL  
EL: (207) 623-8880  
TV (207) 623-8880 CALL ANDIE RELAY 771

STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
Augusta, Maine 04333-0000

March 5, 2018

Col. Robert A. Williams  
Maine State Police  
42 State House Station  
Augusta, ME 04333

Mary Sabins, Town Manager  
Vassalboro Police Department  
P.O. Box 129  
N. Vassalboro, ME 04962

Dear Col. Williams and Ms. Sabins:

We have completed our investigation and legal review of the incident on February 10, 2017, in Vassalboro, involving the use of deadly force by Vassalboro police chief Mark Brown, and Lt. Jeff Parks and Lt. Scott Ireland of the State Police. As you know, the use of deadly force by Tr. Parks and Lt. Ireland resulted in the gunshot deaths of Ambrosia Fagre and Kadhar Bailey, respectively. While Chief Brown firing his handgun at Mr. Kadhar resulted in no injury, his action nevertheless constituted deadly force under Maine law.

**Factual Summary**

At about 4:00 P.M. on February 10, 2017, Lt. Scott Ireland arrived home in Vassalboro. He was approached by a neighbor who notified him of a suspicious Dodge Durango parked further down the road. Lt. Ireland, who was wearing civilian clothes, donned his Maine State Police jacket and gun belt and proceeded down the road in his State Police vehicle. He observed the Durango backed into a turnaround. A single occupant sitting in the front passenger seat was later identified as Ambrosia Fagre, 18. Lt. Ireland saw that Ms. Fagre was slumped over and appeared unconscious. He feared that she was suffering from carbon monoxide poisoning. He knocked on the window, but only after he knocked on the window did Ms. Fagre react. After jostling Ms. Fagre to open her eyes, Lt. Ireland told her that she was not suffering from carbon monoxide poisoning, but was very lethargic and, in his words, "out of it." Ms. Fagre told Lt. Ireland that she was waiting for her boyfriend to come back. Lt. Ireland was joined by Sgt. Galen Estes of the Kennebec County Sheriff's Office, who was in the area investigating a burglary. Ms. Fagre alternately told the officers that her boyfriend's name was Nick, Brian, and Hunter, and that she did not know his last name but that he lived in an apartment in Augusta.

3:45 PM 5/27  
20170210\_Ireland et al\_Vassalboro.pdf

3:45 PM 5/27  
20170210\_Ireland et al\_Vassalboro.pdf

3:45 PM 5/27  
20170210\_Ireland et al\_Vassalboro.pdf

*Appendix C*

**QUESTION 37**

On page 191 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“I have been warning for years that Lt Scott Ireland is a powder keg. Now he has murdered two people right outside his house.”

At the time you made the assertion that LT Scott Ireland “murdered two people,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 16 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “murdered two people”? Please also briefly explain how those facts became known to you.

**ANSWER**

Actually, the entire post reads as follows. “I have been warning for years that Lt. Scott Ireland is a powder keg. Now he has murdered two people right outside his house. If we don’t stand up and demand answers, he will get away with it.”

I did initially think that Lt Ireland Shot Amber Fagre. When I learned that Trooper Parks actually shot her, I immediately updated that information on social media with the following post. (see picture to right) I

*Appendix C*

initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles. The basis of my opinion was from Newspaper reports indicataing that Lt. Ireland was a shooter in an incident that killed Kadhar and Amber; verbal reports from a close friend of Amber Fagre on her injuries, photo's of the Dodge Durango as to show trajectory of bullets fired by police and medical records on injuries to Kadhar Bailey. Also Amber Fagre.was not in the possession weapon and it appeared that no scientific drug or alcohol test was conducted.

## Appendix C

# Joshua Gray, PI - NSI Surveillance & Investigation

•••

March 8, 2018 • ④

Here is final AG report on Amber Fagre's death. Trooper Jeff Parks fired the shot that killed Amber. I have previously thought that it was Lt. Scott Ireland. I was wrong. The report generates more questions than it answers.

1 L7E

3:45 PM

4 829

20170210\_Ireland et al\_Vassalboro.pdf

JANET T. MILES  
ATTORNEY GENERAL

EL: (207) 620-8800  
TY UNRIV CALL NAME RELAY 711

STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
8 BOSTON STREET  
AUGUSTA, MAINE 04333-0006

REGULAR OFFICERS  
8 BOSTON STREET  
AUGUSTA, MAINE 04333-0006  
TEL: (207) 620-8800  
FAX: (207) 620-8801  
E-MAIL: [AG@maine.gov](mailto:AG@maine.gov)  
EFT: [ETRUST.NET/ETRU/ETRU\\_MAIN.ASP](http://maine.etrust.net/etru/etru/etru_main.asp)  
POSTAL: AUGUSTA, MAINE 04333-0006

14 AGC OFFICES: TEL: 1-800-222-1122  
CAMDEN, MAINE 04639-1700  
TEL: (207) 846-1700  
FAX: (207) 846-3291

March 5, 2018

Col. Robert A. Williams  
Maine State Police  
42 State House Station  
Augusta, ME 04333

Mary Sabine, Town Manager  
Vassalboro Police Department  
P.O. Box 127  
N. Vassalboro, ME 04962

Dear Col. Williams and Ms. Sabine:

We have completed our investigation and legal review of the incident on February 10, 2017, in Vassalboro, involving the use of deadly force by Vassalboro police chief Mark Bresen, and Trooper Jeffrey Parks and Lieutenant Scott Ireland of the State Police. As you know, the use of deadly force by Lt. Parks and Lt. Ireland resulted in the gunshot deaths of Andromidia Fagre and Kadler Hause, respectively. While Chief Bresen fired his handgun at Mr. Kadler, remained in no injury, his actions nevertheless constituted deadly force under Maine law.

## Factual Summary

At about 4:09 PM, on February 10, 2017, Lt. Scott Ireland arrived home in Vassalboro. He was approached by a neighbor who notified him of a suspicious Dodge Durango parked further down the road. Lt. Ireland, who was wearing civilian clothes, donned his Maine State Police jacket and gun belt and proceeded down the road to his State Police Vehicle. He observed the Durango backed into a tree-trunk. A single occupant sitting in the front passenger seat was later identified as Andromidia Fagre, 18. Lt. Ireland saw that Ms. Fagre was slumped over and appeared unconscious. He feared that she was suffering from carbon monoxide poisoning. He knocked on the window, but only after pounding on the window did Ms. Fagre react. After getting Ms. Fagre to open the car door, Lt. Ireland learned that she was not very lethargic and, in his words, "out of it." Ms. Fagre was transported to the hospital in Vassalboro by Sgt. Gideon Estes of the Kennebec County Sheriff's Office, who was in the area investigating a burglary. Ms. Fagre allegedly told the officers that her boyfriend's name was Nick, Dylan, and Hunter, and that she did not know his last name but that he lived in an apartment in Augusta.

1 L7E Date 20170210\_Ireland et al\_Vassalboro.pdf

2 829

3 829

4 829

5 829

6 829

7 829

8 829

9 829

10 829

11 829

12 829

13 829

14 829

15 829

16 829

17 829

18 829

19 829

20 829

21 829

22 829

23 829

24 829

25 829

26 829

27 829

28 829

29 829

30 829

31 829

32 829

33 829

34 829

35 829

36 829

37 829

38 829

39 829

40 829

41 829

42 829

43 829

44 829

45 829

46 829

47 829

48 829

49 829

50 829

51 829

52 829

53 829

54 829

55 829

56 829

57 829

58 829

59 829

60 829

61 829

62 829

63 829

64 829

65 829

66 829

67 829

68 829

69 829

70 829

71 829

72 829

73 829

74 829

75 829

76 829

77 829

78 829

79 829

80 829

81 829

82 829

83 829

84 829

85 829

86 829

87 829

88 829

89 829

90 829

91 829

92 829

93 829

94 829

95 829

96 829

97 829

98 829

99 829

100 829

101 829

102 829

103 829

104 829

105 829

106 829

107 829

108 829

109 829

110 829

111 829

112 829

113 829

114 829

115 829

116 829

117 829

118 829

119 829

120 829

121 829

122 829

123 829

124 829

125 829

126 829

127 829

128 829

129 829

130 829

131 829

132 829

133 829

134 829

135 829

136 829

137 829

138 829

139 829

140 829

141 829

142 829

143 829

144 829

145 829

146 829

147 829

148 829

149 829

150 829

151 829

152 829

153 829

154 829

155 829

156 829

157 829

158 829

159 829

160 829

161 829

162 829

163 829

164 829

165 829

166 829

167 829

168 829

169 829

170 829

171 829

172 829

173 829

174 829

175 829

176 829

177 829

178 829

179 829

180 829

181 829

182 829

183 829

184 829

185 829

186 829

187 829

188 829

189 829

190 829

191 829

192 829

193 829

194 829

195 829

196 829

197 829

198 829

199 829

200 829

201 829

202 829

203 829

204 829

205 829

206 829

207 829

208 829

209 829

210 829

211 829

212 829

213 829

214 829

215 829

216 829

217 829

218 829

219 829

220 829

221 829

222 829

223 829

224 829

225 829

226 829

227 829

228 829

229 829

230 829

231 829

232 829

233 829

234 829

235 829

236 829

237 829

238 829

239 829

240 829

241 829

242 829

243 829

244 829

245 829

246 829

247 829

248 829

249 829

250 829

251 829

252 829

253 829

254 829

255 829

256 829

257 829

258 829

259 829

260 829

261 829

262 829

263 829

264 829

265 829

266 829

267 829

268 829

269 829

270 829

271 829

272 829

273 829

274 829

275 829

276 829

277 829

278 829

279 829

280 829

281 829

282 829

283 829

284 829

285 829

286 829

287 829

288 829

289 829

290 829

291 829

292 829

293 829

294 829

295 829

296 829

297 829

298 829

299 829

300 829

301 829

302 829

303 829

304 829

305 829

306 829

307 829

308 829

309 829

310 829

311 829

312 829

313 829

314 829

315 829

316 829

317 829

318 829

319 829

320 829

321 829

322 829

323 829

324 829

325 829

326 829

327 829

328 829

329 829

330 829

331 829

332 829

333 829

334 829

335 829

336 829

337 829

338 829

339 829

340 829

341 829

342 829

343 829

344 829

345 829

346 829

347 829

348 829

349 829

350 829

351 829

352 829

353 829

354 829

355 829

356 829

357 829

358 829

359 829

360 829

361 829

362 829

363 829

364 829

365 829

366 829

367 829

368 829

369 829

370 829

371 829

372 829

373 829

374 829

375 829

376 829

377 829

378 829

379 829

380 829

381 829

382 829

383 829

384 829

385 829

386 829

387 829

388 829

389 829

390 829

391 829

392 829

393 829

394 829

395 829

396 829

397 829

398 829

399 829

400 829

401 829

402 829

403 829

404 829

405 829

406 829

407 829

408 829

409 829

410 829

411 829

412 829

413 829

414 829

415 829

416 829

417 829

418 829

419 829

420 829

421 829

422 829

423 829

424 829

425 829

426 829

427 829

428 829

429 829

430 829

431 829

432 829

433 829

434 829

435 829

436 829

437 829

438 829

439 829

440 829

441 829

442 829

443 829

444 829

445 829

446 829

447 829

448 829

449 829

450 829

451 829

452 829

453 829

454 829

455 829

456 829

457 829

458 829

459 829

460 829

461 829

462 829

463 829

464 829

465 829

466 829

467 829

468 829

469 829

470 829

471 829

472 829

473 829

474 829

475 829

476 829

477 829

478 829

479 829

480 829

481 829

482 829

483 829

484 829

485 829

486 829

487 829

488 829

489 829

490 829

491 829

492 829

493 829

494 829

495 829

496 829

497 829

498 829

499 829

500 829

501 829

502 829

503 829

504 829

505 829

506 829

507 829

508 829

509 829

510 829

511 829

512 829

513 829

514 829

515 829

516 829

517 829

518 829

519 829

520 829

521 829

522 829

523 829

524 829

525 829

526 829

527 829

528 829

529 829

530 829

531 829

532 829

533 829

534 829

535 829

536 829

537 829

538 829

539 829

540 829

541 829

542 829

543 829

544 829

545 829

546 829

547 829

548 829

549 829

550 829

551 829

552 829

553 829

554 829

555 829

556 829

557 829

558 829

559 829

560 829

561 829

562 829

563 829

564 829

565 829

566 829

567 829

568 829

569 829

570 829

571 829

572 829

573 829

574 829

575 829

576 829

577 829

578 829

579 829

580 829

581 829

582 829

583 829

584 829

585 829

586 829

587 829

588 829

589 829

590 829

591 829

592 829

593 829

594 829

595 829

596 829

597 829

598 829

599 829

600 829

601 829

602 829

603 829

604 829

605 829

606 829

607 829

608 829

609 829

610 829

611 829

612 829

613 829

614 829

615 829

616 829

617 829

618 829

619 829

620 829

621 829

622 829

623 829

624 829

625 829

626 829

627 829

628 829

629 829

630 829

631 829

632 829

633 829

634 829

635 829

636 829

637 829

638 829

639 829

640 829

641 829

642 829

643 829

644 829

645 829

646 829

647 829

648 829

649 829

650 829

651 829

652 829

653 829

654 829

655 829

656 829

657 829

658 829

659 829

660 829

661 829

662 829

663 829

664 829

665 829

666 829

667 829

668 829

669 829

670 829

671 829

672 829

673 829

674 829

675 829

676 829

677 829

678 829

679 829

680 829

681 829

682 829

683 829

684 829

685 829

686 829

687 829

688 829

689 829

690 829

691 829

692 829

693 829

694 829

695 829

696 829

697 829

698 829

699 829

700 829

701 829

702 829

703 829

704 829

705 829

706 829

707 829

708 829

709 829

710 829

711 829

712 829

713 829

714 829

715 829

716 829

717 829

718 829

719 829

720 829

721 829

722 829

723 829

724 829

725 829

726 829

727 829

728 829

729 829

730 829

731 829

732 829

733 829

734 829

735 829

736 829

737 829

738 829

739 829

740 829

741 829

742 829

743 829

744 829

745 829

746 829

747 829

748 829

749 829

750 829

751 829

752 829

753 829

754 829

755 829

756 829

757 829

758 829

759 829

760 829

761 829

762 829

763 829

764 829

765 829

766 829

767 829

768 829

769 829

770 829

771 829

772 829

773 829

774 829

775 829

776 829

777 829

778 829

779 829

780 829

781 829

782 829

783 829

784 829

785 829

786 829

787 829

788 829

789 829

790 829

791 829

792 829

793 829

794 829

795 829

796 829

797 829

798 829

799 829

800 829

801 829

802 829

803 829

804 829

805 829

806 829

807 829

808 829

809 829

810 829

811 829

812 829

813 829

814 829

815 829

816 829

817 829

818 829

819 829

820 829

821 829

822 829

823 829

824 829

825 829

826 829

827 829

828 829

829 829

830 829

831 829

832 829

833 829

834 829

835 829

836 829

837 829

838 829

839 829

840 829

841 829

842 829

843 829

844 829

845 829

846 829

847 829

848 829

849 829

850 829

851 829

852 829

853 829

854 829

855 829

856 829

857 829

858 829

859 829

860 829

861 829

862 829

863 829

864 829

865 829

866 829

867 829

868 829

869 829

870 829

871 829

872 829

873 829

874 829

875 829

876 829

877 829

878 829

879 829

880 829

881 829

882 829

883 829

884 829

885 829

886 829

887 829

888 829

889 829

890 829

891 829

892 829

893 829

894 829

895 829

896 829

897 829

898 82

I believed at the time, and now, this social media post to be protected first amendment speech.

*Appendix C*

**QUESTION 38**

On page 198 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

“I have been warning about this dirty cop for years . . . now Lt Scott Ireland has shot and killed a [sic] 25 and 18 year old kids.”

At the time you made the assertion that LT Scott Ireland “shot and killed a [sic] 25 and 18 year old kids,” what was the factual basis of the assertion? In other words, at the time you made that assertion (namely, on or about 16 February 2017), on what facts known to you were you basing the assertion that LT Scott Ireland “shot and killed a [sic] 25 and 18 year old kids”? Please also briefly explain how those facts became known to you.

**ANSWER**

The actual post is as follows: “

There is no question that Lt Ireland fired a weapon and killed Kadhar Bailey, the 25 year old. This fact was confirmed by Assistant Attorney General Kent Avery.

I did initially think that Lt Ireland Shot Amber Fagre. When I learned that Trooper Parks actually shot her, I

*Appendix C*

immediately updated that information on social media.

I initially assumed Lt Ireland shot her based on the information I had available to me at the time. Notably the shooting happened near Lt Irelands personal residence, and he was the ranking officer on scene, prior complaints about Lt Ireland and he was named as a shooter in several newspaper articles.

The basis of my opinion was from Newspaper reports indicataing that Lt. Ireland was a shooter in an incident that killed Kadhar and Amber; verbal reports from a close friend of Amber Fagre on her injuries, photo's of the Dodge Durango as to show trajectory of bullets fired by police and medical records on injuries to Kadhar Bailey. Also Amber Fagre.was not in the possession weapon and it appeared that no scientific drug or alcohol test was conducted on the police.

I believed at the time, and now, this social media post to be protected first amendment speech.

**QUESTION 39**

On page 161 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business' Facebook page:

*Appendix C*

“Also this happened right outside Lt Irelands personal residence! He was off duty at the time and possible [sic] drunk.”

Further, on page 162 of the record before the Maine Superior Court in the matter of Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65), you asserted the following on your NSI Investigation & Surveillance business’ Facebook page:

“The bullet trajectories clearly show the cops were not in front of the vehicle. They were well off to the side and out of danger. Not to mention Lt Ireland was most likely drunk!!!”

At the times you made the respective assertions that LT Scott Ireland was “possible [sic] drunk” and “was most likely drunk,” what was the factual basis of your having implied with those assertions that LT Scott Ireland drinks? In other words, at the times you made the respective assertions, on what facts known to you were you basing those assertions that both imply LT Scott Ireland drinks? Please also briefly explain how those facts became known to you.

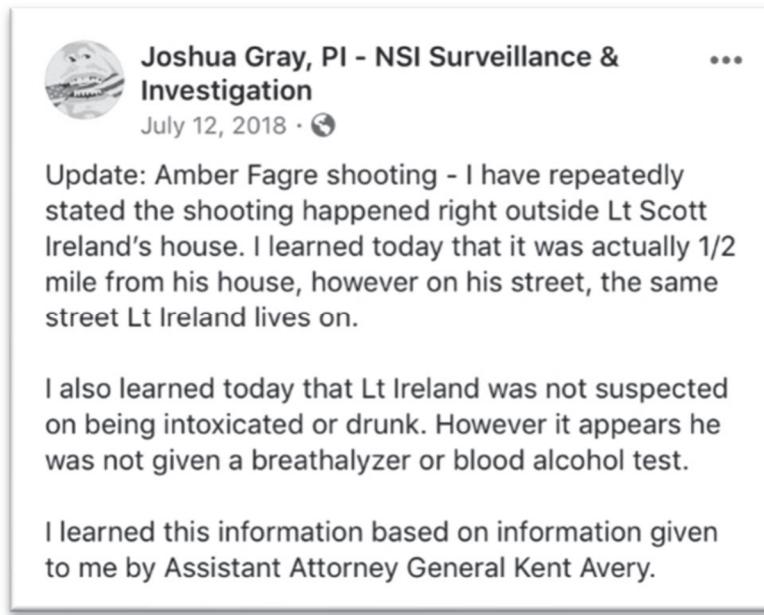
**ANSWER**

This is my opinion and not a ‘fact’ as suggested in the question.

I expressed my opinion that Lt Ireland was ‘Possible Drunk’ & ‘was most likely drunk’. This opinion was

*Appendix C*

based on information that Lt Ireland was Off Duty at the time of the shooting and it happened close to his home / personal residence. When I learned the State Police and AG office did not suspect him of being drunk, I immediately posted the following on social media: (see right)



Joshua Gray, PI - NSI Surveillance & Investigation · July 12, 2018

Update: Amber Fagre shooting - I have repeatedly stated the shooting happened right outside Lt Scott Ireland's house. I learned today that it was actually 1/2 mile from his house, however on his street, the same street Lt Ireland lives on.

I also learned today that Lt Ireland was not suspected on being intoxicated or drunk. However it appears he was not given a breathalyzer or blood alcohol test.

I learned this information based on information given to me by Assistant Attorney General Kent Avery.

While the State did not think he was drunk based on 'detecting nothing that would indicate alcohol use', it seems that no scientific tests were conducted to confirm that. Scientific test of all police involved in this shooting would have eliminated this opinion.

I believed at the time, and now, this social media post to be protected first amendment speech. It was not written with malicious intent.

*Appendix C*

Joshua Gray v. State of Maine, Department of Public Safety (Kennebec County Superior Court – Augusta Dkt. No. AP-18-65)

---

CERTIFICATION

I, Joshua A. Gray, hereby certify that, to the best of my knowledge and belief, the responses I have provided to the questions that have been posed to me above are truthful.

9/18/19  
DATE

Joshua A. Gray  
SIGNATURE OF  
JOSHUA A. GRAY

\*\*\*\*\*

State of Maine

County of Knox

The foregoing instrument was acknowledged before me this 18th day of September, 2019 at Camden, Maine by Mr. Joshua A. Gray.

Roger L. Hurley  
Signature of Notary Public

Roger L. Hurley  
Printed Name of Notary Public

My commission expires: Bar No. 004834

---

*Appendix D*

2019 WL 4899250 (Me.Super.) (Trial Order)

Superior Court of Maine.

Kennebec County

Joshua GRAY, Petitioner,

v.

STATE of Maine, DEPARTMENT OF  
PUBLIC SAFETY, Respondent.

No. AP-18-65.

July 18, 2019.

**Order on Petitioner's 80C Appeal**

Roger Hurley, Esq., 48 Washington Street, Camden,  
ME 04843, plaintiff's.

Kent Avery, AAG, 6 State House Station, Augusta, ME  
04333-0006, defendant's.

Before the Court is Petitioner Joshua Gray's 80C petition for review of the Department of Public Safety's (the "Department's") denial of his application for a Professional Investigator's License. For the following reasons, the petition is granted.

***Background***

Joshua Gray is licensed as a Professional Investigator in Tennessee, Vermont, Massachusetts and New Hampshire. On January 26, 2018, Gray applied for an investigator's license in Maine. As part of its review of Gray's application, the Department conducted a background investigation which included an investigation

*Appendix D*

into Gray's use of social media. This investigation revealed that Gray has published numerous statements concerning a fatal police shooting which occurred in Vassalboro in 2017. The dominant theme of these statements is that an officer who was involved in the shooting, Lt. Scott Ireland, is a "dirty cop" whose career has been plagued by lying, internal affairs trouble and abuse of power issues and who committed first degree murder while he was "likely drunk." As a result of its investigation, the Department concluded that Gray had made statements which demonstrate that he "lack[s] the requisite competency and fitness of character to act as a PI in the State of Maine." Consequently, the Department denied Gray's application on August 31, 2018. Gray's attorney received a copy of the denial on September 14, 2018 and on October 11, 2018 Gray filed a petition for review of the denial of his application.

***Standard of Review***

The Court reviews an administrative agency's decision for an abuse of discretion, error of law, or findings not supported by the evidence. *Uliano v. Bd. of Envtl. Prot.*, 2009 ME 89, ¶ 12, 977 A.2d 400 (citation omitted). "An administrative decision will be sustained if, on the basis of the entire record before it, the agency could have fairly and reasonably found the facts as it did." *Id.* (quoting *CWCO, Inc. v. Superintendent of Ins.*, 1997 ME 226, ¶ 6, 703 A.2d 1258). The party seeking to vacate an agency decision bears the burden of

*Appendix D*

persuasion. *Kelley v. Me. Pub. Emps. Ret. Sys.*, 2009 ME 27, ¶ 16, 967 A.2d 676. “When an agency concludes that the party with the burden of proof failed to meet that burden, [the court] will reverse that determination only if the record compels a contrary conclusion to the exclusion of any other inference.” *Kelley v. Me. Pub. Emps. Ret. Sys.*, 2009 ME 27, ¶ 16, 967 A.2d 676 (quotation omitted).

***Discussion***

The State of Maine requires that professional investigators obtain a professional investigator’s license from the Chief of the Maine State Police. 32 M.R.S. § 8104. In order to obtain an investigator’s license, an applicant must demonstrate that they possess good moral character. *Id.* § 8105(4). Further, the Chief may refuse to issue a license if the applicant has:

- A. Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or
- B. Engaged in conduct that evidences a lack of knowledge or an inability to apply principles or skills to carry out the practice for which the person is licensed.

32 M.R.S. § 8113(6).

In this case, the Chief of the Maine State Police determined that “since early 2017, [Gray had] made

*Appendix D*

postings on social media platforms (including on [his] business' official Facebook page) that include statements that are materially false." (R. 4.) The Chief further determined that "[b]y publishing such misleading statements publicly, [Gray has] demonstrated conduct that brings into question [his] ability to competently investigate and then report investigative findings with accuracy, objectivity, and without bias." *Id.* The Chief reasoned that "[f]rom a consumer protection perspective, these findings . . . are of great concern." *Id.* Consequently, the Chief denied Gray's license based on his findings that Gray "lack[s] the requisite competency and fitness of character to act as a PI in the State of Maine." (R. 4.)

Gray argues that denying his application on the basis of his social media articles and posts violates his right to free speech and thus constitutes an error of law. Gray asserts that his social media postings are statements of opinion which were not likely to incite violence and that they were made in his capacity as a private citizen. Because, in his view, "[a]ll speech, in any form and by any method, has always been ruled as protected except speech which incites imminent violence," Gray argues that his social media posts cannot be considered when determining whether he has good moral character.

The Department argues that many of Gray's statements are demonstratively false and that this supports a finding that Gray is dishonest, not able to accurately report facts, and is incompetent to act as a professional

*Appendix D*

investigator. The Department also points out that defamatory speech is not protected by the First Amendment. *See Ashcroft v. Free Speech Coal.*, 535 U.S. 234,245-46 (2002) (“As a general principle, the First Amendment bars the government from dictating what we see or read or speak or hear. Freedom of speech of course has its limits; it does not embrace certain categories of speech, including defamation, incitement, obscenity, and pornography produced with real children.”)

As a general matter, “[a] State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment.” *In re Feingold*, 296 A.2d 492, 498-99 (Me. 1972) (quoting *Schware v. Board of Bar Examiners*, 353 U.S. 232, 238-239 (1957)). And as a matter of First Amendment principles, a Government may not regulate speech based upon the motivating ideology, opinion or perspective of the speaker. *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

In this case, the Department’s Notice of Denial shows that Gray’s application was denied because of the statements that Gray made on social media. Further, the notice shows that the Department’s denial was based upon its disagreement with the viewpoints expressed in these statements. The Department reasons that Gray should not receive a private investigator’s license as the statements show that he is

*Appendix D*

incompetent and lacks the necessary fitness of character. This finding is in turn based solely on what the Department characterizes as “materially false” statements that Gray has made publicly. In other words, it is based on the Department’s disagreement with Gray’s publicly stated opinion that the State Trooper is a dirty cop with a history of internal affairs problems who committed murder.

In its court filings the Department argues that the denial was not actually based upon Gray’s public opinions about police corruption and competency, but rather that it was based on conduct which shows that Gray is unable to investigate with accuracy, objectivity, and without bias. In support of its argument, the Department has provided a spreadsheet compiling Gray’s statements and the Department’s findings regarding the purported veracity of each statement. Additionally, the Department has also submitted the Attorney General’s investigative report on the use of deadly force by the State Police during the 2017 Vassalboro shooting; a memorandum from Lt. Anna Love of the State Police Office of Professional standards stating that Lt. Ireland does not have any history of being disciplined for misconduct; and over 300 pages of statements that Gray has made on social media.

Although the Department has offered evidence which supports its opinion that Lt. Ireland is not guilty of murder and has not been subject to internal affairs

*Appendix D*

discipline<sup>1</sup>, there is no record evidence of the investigative methods Gray employed or the specific information Gray either utilized or ignored in reaching his conclusions about Lt. Ireland and the Maine State Police. Moreover, there is nothing in the record to suggest that whatever Gray did in regards to the shooting was an “investigation” as opposed to him making statements that were understandably perceived by state actors to be false, outrageous and offensive. The Court concludes that the Department’s determination that Gray lacks the necessary competency to investigate is based primarily on the fact that Gray has reached opinions or conclusions about Lt. Ireland and the State Police which are completely at odds with the Department’s, and which do display a hostile bias toward Lt. Ireland.

Further, although Gray’s statements may arguably contain defamatory material,<sup>2</sup> the Department has overlooked two important considerations which the Court cannot. First, the Court in this Rule 80C appeal is not in any position to adjudicate whether the statements constitute defamation against a public figure. More fundamentally, however, the Maine Supreme

---

<sup>1</sup> It should be noted that there is no record evidence that Lt. Ireland has not been the subject of internal affairs investigations. The only evidence is that he has not been disciplined as a result of any investigation.

<sup>2</sup> The parties disagree over whether Gray’s statements should be fairly characterized as statements of opinion or statements of fact. *See Lester v. Powers*, 596 A.2d 65, 69 (Me. 1991) (an opinion which does not imply the existence of undisclosed defamatory facts cannot support a claim for defamation).

*Appendix D*

Court has recognized that statements made about or against public officials, even ones which are “objectively false”, inflammatory, or outrageous, are protected by a limited First Amendment privilege. *See Plante v. Long*, 2017 ME 189, ¶ 10, 170 A.3d 24. Because the statements at issue here all concern and pertain to a matter of public importance and public figures – a police shooting, the resulting investigation, and the police officer involved in the shooting – this appeal cannot be resolved in the usual manner by determining if there is competent evidence in the record to support the administrative decision. The Petitioner is making a constitutional argument, which of course is something that can be done in an administrative appeal such as this one. The Court has concluded that the issue therefore becomes what standard the Department is required to apply to the statements in order to determine if Petitioner can be denied a license based on, as the Department frames the issue, his “competence” and “character.”

While the Court could not find any Maine case in which a professional license was denied solely based on statements made by the applicant in social media, the Law Court in *Plante* did not just reaffirm and reiterate the limited privilege that applies to allegedly defamatory statements made against public figures. It held that in order to overcome the privilege, a showing must be made by clear and convincing evidence that the statements were made with “actual malice”—i.e., with knowledge that the statements were false or with

*Appendix D*

reckless disregard of their truth or falsity. *Id.* While the Department understandably believes, based on their investigations of Lt. Ireland, that the statements were “materially false,” the Law Court clarified in *Plante* that the objective falsity of a statement or statements cannot by itself support a finding of actual malice. *Id.* ¶ 12.

In its notice of denial, the Department does not make any finding whether Petitioner made these statements with knowledge that they were false, or with reckless disregard of their truth or falsity. This means that it has not provided any evidence showing that Gray acted with actual malice when he published his social media statements. Because the Department focused solely on the objective falsity of Gray’s statements, it applied the wrong legal standard to determine whether Gray lacks competence and good moral character because he made defamatory or false statements. Consequently, this matter must be remanded to the Department to allow it to determine whether Gray, at the time he published his allegedly defamatory social media posts, “in fact knew that his statements were false or . . . acted with a high degree of awareness of their probable falsity.” *Id.* ¶ 10 (quotation omitted).

*Appendix D*

***Conclusion***

For the foregoing reasons, the entry will be:

**The Petitioner's Rule 80 C petition is granted in part. The decision of the Department of Public Safety is reversed and remanded to the Department to conduct an appropriate process or proceeding which would enable it to determine if the Petitioner's statements were made with actual malice as defined by Maine law. The clerk is directed to incorporate this order into the docket by reference. M.R. Civ. P. 79(a).**

**Date:** 7/18/19

<<signature>>

**Justice, Superior Court**

**Date of Entry**

10/11/18	Petition for Review of Final Agency Action, filed. s/Hurley, Esq.
10/25/18	Entry of Appearance for Respondent, State of Maine, by Assistant Attorney General Kent Avery, filed (10/25/18). s/Avery, AAG
10/25/18	Letter from Tandra Manzo, of the Office of the Attorney General requesting a copy of docket record, filed (10/25/18). s/Manzo, Paralegal
	Clerk sent copy of docket record to AAG Kent Avery

*Appendix D*

10/31/18      Supplemental Entry of Appearance to state that all three parties take the position that the decision of the State Police to deny the Plaintiff a license as a Professional Investigator should be affirmed, filed (10/29/18). s/ Avery, Esq.

10/31/18      Summons/Service  
Certificate of Service by Certified Mail, filed (10/29/18). s/Hurley, Esq.  
Service on 10/15/18

11/06/18      Certified Record, filed (11/05/18).  
s/Avery, AAG

11/06/18      Notice and Briefing Schedule Issued  
Copies to Parties/Counsel

11/14/18      Petitioner's Consented Motion for Waiver of Compliance to Title 5: administrative Procedures and Services Part 18, Chapter 374 Sub Chapter 7, Section 11003, filed (11/14/118). s/Hurley, Esq.

11/15/18      ORDER, Murphy, J. (11/19/18)  
Order on Petitioner's Motion for Waiver of Compliance  
Motion is GRANTED  
Copies to Parties/Counsel

12/18/18      Petitioner's Brief, filed (12/13/18).  
s/Hurley, Esq.

## Appendix E

[SEAL]

**STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
MAINE STATE POLICE**

By Certified Mail, Return Receipt #7015343000050949983

31 August 2018

Mr. Joshua Gray  
25 Dorchester Avenue # 51187  
Boston, MA 02205

**RE: Notice of Denial of Application for Professional Investigator's License; Opportunity to Appeal**

Dear Mr. Gray:

This letter concerns the application for a professional investigator (“PI”) license you submitted to the Maine State Police on or about 26 January 2018.

After reviewing the information you provided to our agency in and with your application, as well as information ascertained during the administrative licensing background investigation that occurs when such applications are processed, I am denying your application for a PI license.

In the case of your application, our background investigation found that since early 2017, you have made postings on social media platforms (including on your

*Appendix E*

business' official Facebook page) that include statements that are materially false. Those statements have been documented in our administrative licensing file and you previously were provided a copy of them.

By publishing such misleading statements publicly, you have demonstrated conduct that brings into question your ability to competently investigate and then report investigative findings with accuracy, objectivity, and without bias. From a consumer-protection perspective, these findings of the background investigation are of great concern.

Accordingly, pursuant to Chapter 89 of the Title 32 of the Maine Revised Statutes, for the reasons discussed above, your application for licensure as a PI is denied because you lack the requisite competency and fitness of character to act as a PI in the State of Maine. *See 32 M.R.S. §§ 8105, 8107, 8113.*

This decision is appealable as final agency action pursuant to the Maine Administrative Procedure Act, 5.M.R.S.A., Ch. 375, Subchapter VII, which provides that judicial review of final agency action may be had by filing a petition for review within 30-days of receipt of notice of final agency action in the Superior Court for the county where:

- (a) One or more of the petitioners reside or have their principal place of business;
- (b) The agency has its principal office; or

146a

*Appendix E*

(c) The activity or property which is the subject of the proceeding is located.

/s/ John E. Cote  
Colonel John E. Cote  
Chief, Main State Police

---

*Appendix F*

32 M.R.S.A. § 8105.

Private investigator's license qualifications

Effective: May 22, 2012

A person is qualified to be licensed as a professional investigator who:

- 1. Age.** Is at least 21 years of age;
- 2. Citizenship.** Is a citizen or resident alien of the United States;
- 3. Graduation.** Is a graduate of an accredited high school or has been granted high school equivalency status by the State;
- 4. Character.** Has demonstrated good moral character and has not been convicted of a crime that is punishable by a maximum term of imprisonment equal to or exceeding one year, or a crime enumerated in this chapter. The determination of good moral character must be made in writing, based upon evidence recorded by a governmental entity. The chief shall consider matters recorded within the previous 5 years including, but not limited to, the following:
  - A.** Records of incidents of abuse by the applicant of family or household members provided pursuant to Title 19-A, section 4012, subsection 1;
  - B.** Records provided by the Department of Health and Human Services regarding the failure of the applicant to meet child or family support obligations;

*Appendix F*

- C.** Records of 3 or more convictions of the applicant for Class D or E crimes;
- D.** Records of 3 or more civil violations by the applicant; or
- E.** Records that the applicant has engaged in recklessness or negligence that endangered the safety of others, including the use of weapons or motor vehicles;

**5. Application.** Submits an application approved by the chief that, at a minimum, includes the following information:

- A.** The applicant's full name;
- B.** The applicant's full current residential address and the applicant's residential addresses during the previous 5 years;
- C.** The applicant's date and place of birth, height, weight and color of eyes;
- D.** A written statement signed by the applicant granting the chief authority to check the criminal records of any law enforcement agency that pertains to any matter involving the applicant. The applicant must agree to submit to having the applicant's fingerprints taken by the issuing authority if it becomes necessary to resolve any question as to the applicant's identity; and
- E.** The answers to the following questions:
  - (1)** Are you currently under indictment or information for a crime for which the possible

*Appendix F*

penalty is imprisonment for a period equal to or exceeding one year?

(2) Have you ever been convicted of a crime for which the possible penalty was imprisonment for a period equal to or exceeding one year?

(3) Are you a fugitive from justice?

(4) Are you an unlawful user of or addicted to marijuana or any other drug?

(5) Have you been adjudged mentally defective or been committed to a mental institution within the past 5 years? or

(6) Are you an illegal alien?

By affixing the applicant's signature, the applicant certifies that the information in the application provided by the applicant is true and correct, that the applicant understands that an affirmative answer to any of the questions in paragraph E is cause for a license to be denied and that any false statement may result in prosecution as provided in section 8114.

**6. Military discharge.** Has not been dishonorably discharged from military service;

**7. Repealed.** Laws 1985, c. 141, § 1.

**7-A. Experience.** Meets at least one of the following criteria:

**A.** Has successfully completed an investigative assistant sponsorship program pursuant to section

*Appendix F*

8110-B and has earned a minimum of 60 academic credits of postsecondary education in a related field of study or an equivalent certificate of study for private investigation;

**B.** Has been employed for a minimum of 3 years as a member of an investigative service of the United States as a sworn member of a branch of the United States Armed Forces or a federal investigative agency. For purposes of this paragraph, “a member of an investigative service of the United States” means a full-time federal investigator or detective of the United States Armed Forces;

**B-1.** Has held for a period of not less than 3 years a valid professional investigator’s license granted under the laws of another state or territory of the United States if

(1) The requirements of the state or territory for a professional investigator’s license were, at the date of the licensing, substantially equivalent to the requirements of this chapter; and

(2) The other state or territory grants similar reciprocity to license holders in this State;

**C.** Has been employed for a minimum of 3 years as a law enforcement officer of a state or political subdivision of a state and has met the training requirements set forth in Title 25, section 2804-C or is qualified to receive a waiver from those requirements; or

*Appendix F*

**D.** Possesses a minimum of 6 years of preparation consisting of a combination of

(1) Work experience, including at least 2 years in a nonclerical occupation related to law or the criminal justice system; and

(2) Educational experience, including at least:

(a) Sixty academic credits of postsecondary education in a field of study listed in division (b) acquired at an accredited junior college, college or university;

(b) An associate degree acquired at an accredited junior college, college, university or technical college in police administration, security management, investigation, law, criminal justice or computer forensics or other similar course of study acceptable to the chief; or

(c) An associate degree in any field of study that is acceptable to the chief; and

**8. Examination.** Has passed an examination administered by the chief covering subjects pertaining to private investigation to be prescribed by the chief, except that a person currently licensed, as described in section 8106, may at no time be required to take any such examination.

---