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## State v. Thompson-CONCURRENCE

SCHALLER, J., concurring. I agree that the judgment must be reversed and the case remanded for a new trial because the defendant, Ryan Thompson, was deprived of a fair trial by reason of prosecutorial misconduct. Resolution of that issue is all that is necessary for a disposition of this case. See State v. Ubaldi, 190 Conn. 559 570, 462 A.2d 1001, cert. denied, 464 U.S. 916, 104 S. Ct. 280, 78 L. Ed. 2d 259 (1983). When an issue is dispositive, we customarily address other issues raised on appeal only when we reasonably conclude that they are likely to arise during the new trial. See State v. Alexander 50 Conn. App. 242, 246, 718 A.2d 66 (1998), rev'd in part on other grounds, 254 Conn. 290, 755 A.2d 868 (2000); State v. Norwood, 47 Conn. App. 586, 590, 707 A.2d 31 (1998). Although I do not disagree with the majority's analysis of those issues, I cannot conclude that they are *likely* to arise in the course of the new trial, in accordance with our pertinent case law. Indeed, the majority did not address that question with respect to the defendant's second claim on appeal. With respect to the remaining claims, the majority concluded only that they "may arise" in the new trial. (Emphasis added). See majority opinion, part II A.

"Courts sit to determine causes and to enforce their determination. . . . It is not our function to render opinions which are simply advisory." (Citation omitted; internal quotation marks omitted.) Pellegrinov. O'Neill, 193 Conn. 670, 683, 480 A.2d 476, cert. denied, 469 U.S. 875, 105 S. Ct. 236, 83 L. Ed. 2d 176 (1984).<sup>1</sup> Although it often may seem desirable to offer guidance on a variety of issues to the trial court when we conclude that a new trial is necessary, we should not speculate about what issues may arise in a new proceeding. Whether an issue is likely to arise in a new proceeding is a question this court decides on the facts of each case. To decide issues unnecessarily, however, results in this court's formulating resolutions and principles that may well not enter into the determination of a case, but may, instead, be academic; adding to the body of general decisions that can obscure rather than clarify the law. That particularly is the case here, where the trial court acted properly, as the majority concludes with respect to the claims addressed in parts II B, III and IV of its opinion. For that reason, I respectfully concur in the result reached by the majority.

<sup>1</sup> Cf. *Shays* v. *Local Grievance Committee*, 197 Conn. 566, 571, 499 A.2d 1158 (1985) (discussing mootness and noting the well established proposition that " '[i]n the absence of an actual and existing controversy for us to adjudicate in any sense of the term, the courts of this state may not be used as a vehicle to obtain judicial opinions upon points of law . . . and where the question presented is purely academic, we must refuse to entertain the appeal' "). (Citation omitted.)