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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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DRANGINIS, J., concurring. I concur with the majority opinion, but write separately to address at greater length the defendant's claim that Connecticut's constancy of accusation doctrine, as modified by S*tate* v. *Troupe*, 237 Conn. 284, 304–305, 677 A.2d 917 (1996) (en banc), should be abandoned. In support of his claim, the defendant cites three cases from other jurisdictions that he *claims* have abandoned the doctrine: *People* v. *Brown*, 8 Cal. 4th 746, 883 P.2d 949, 35 Cal. Rptr. 2d 407 (1994) (en banc), *Commonwealth* v. *Licata*, 412 Mass. 654, 591 N.E.2d 672 (1992), and *State* v. *Hill*, 121 N.J. 150, 578 A.2d 370 (1990) (en banc).

Contrary to the defendant's claim, none of the cases he cites from other jurisdictions has abandoned what is known in those jurisdictions as the fresh complaint rule.[1] New Jersey[2] and California[3] have modified the rule. In *Troupe*, Connecticut modified the constancy of accusation doctrine, holding "that a person to whom a sexual assault victim has reported the assault may testify only with respect to the fact and timing of the victim's complaint; any testimony by the witness regarding the details surrounding the assault must be strictly limited to those necessary to associate the victim's complaint with the pending charge . . . ." *State* v. *Troupe*, supra, 237 Conn. 304. The Supreme Judicial Court of Massachusetts has not abandoned or modified the fresh complaint rule.[4] Furthermore, I note that *Troupe* cites all three of those persuasive cases and quotes extensively from *Hill* in its reasoning. More importantly, I note that within the last dozen years, the highest courts of New Jersey, Massachusetts and California have acknowledged the unfortunate societal bias that not merely justifies the admission into evidence of complaints made to other people by victims of sexual assault, but which necessitates the constancy of accusation doctrine. I believe the unfortunate circumstances are worth repeating.

"Indisputably, one of the historic premises of the doctrine—that it is natural for the victim of sexual assault to complain promptly following the assault—has been discredited substantially in contemporary times. The overwhelming body of current empirical studies, data, and other information establishes that it is *not* inherently natural for the victim to confide in someone or to disclose, immediately following commission of the offense, that he or she was sexually assaulted. . . . At the same time, these courts have also recognized that many people still adhere to the belief that a rape victim ordinarily will report the crime and that the failure of the victim to do so casts doubt on the credibility of the accusation. Consequently, most of the jurisdictions that have had occasion to consider

the continued efficacy of the doctrine have decided to retain it in recognition of the unfortunate fact that the prejudices underlying the doctrine remain all too prevalent in our society.'' (Citations omitted; emphasis in original; internal quotation marks omitted.) Id., 300–301.

''[T]he fresh-complaint doctrine is rooted in sexist notions of how the 'normal' woman responds to rape. We acknowledge the doctrine's misguided history and attempt to cure the defects underlying the rule that could infect rape proceedings with anti-female bias. Nonetheless, we conclude that women victims are better served by the continuance of the fresh-complaint doctrine than by its elimination. The present rule as designed neutralizes jurors' negative inferences concerning the woman's silence after having been raped.'' *State* v. *Hill*, supra, 121 N.J. 170.

In conclusion, I also point out that our Supreme Court rejected a similar call to abandon the *Troupe* constancy of accusation doctrine just last year in *State* v. *Kelly*, 256 Conn. 23, 35–40, 770 A.2d 908 (2001). Here, the defendant argues that *Troupe* permits the state to call numerous witnesses to repeat the complaint, thereby causing him prejudice. Although Judge Landau in his concurrence in *Kelly* addressed the prejudice that may result from the testimony of multiple constancy of accusation witnesses; id., 100–105 (*Landau, J.*, concurring); the majority of our Supreme Court was not persuaded to abandon the constancy of accusation doctrine.[5]

Due to the continued societal bias against the victims of sexual assault, I think that it would be a poor public policy decision to abandon Connecticut's constancy of accusation doctrine. I therefore respectfully concur in the majority opinion.

[1] In *Troupe*, our Supreme Court traced the origins of the constancy of accusation doctrine to the fresh complaint rule. ''The fresh complaint doctrine evolved as a response to the common-law requirement of hue and cry. Victims of violent crimes were expected to cry out immediately and alert their neighbors that they had been violently assaulted. The neighbors could then initiate a collective search for the aggressor. The hue and cry also served to dispel any suspicion that the victim had been somehow involved or complicit in the crime. . . . Trial courts required full details of the victim's complaint as a necessary element of the prosecution's case in those instances of violence. . . .

''The courts applied the same hue and cry requirement in rape cases . . . . Because hue and cry was a necessary prerequisite for a court to hear a rape case, [women who had not complained] could not have their cases prosecuted. Later, courts heard cases in which women had not raised the hue and cry after having been raped. In those cases, however, the courts allowed the evidence of the woman's silence to be introduced as a self-contradiction to her later claim of rape.'' (Internal quotation marks omitted.) *State* v. *Troupe*, supra, 237 Conn. 294, quoting *State* v. *Hill*, supra, 121 N.J. 157–58.

[2] The New Jersey Supreme Court held that ''to qualify as fresh complaint a victim's statements regarding the rape should not be extracted by coercive questioning. We leave it to the trial court to examine all the circumstances of the questioning to determine whether the line between coercive and benign questioning has been crossed. Likewise, the trial court in its discretion may, but need not, exclude cumulative fresh-complaint testimony that is prejudicial to [the] defendant.'' *State* v. *Hill*, supra, 121 N.J. 170.

[3] The Supreme Court of California held: ''We conclude . . . that evidence

of the fact of, and the circumstances surrounding, an alleged victim's disclosure of the offense may be admitted in a criminal trial for nonhearsay purposes under generally applicable evidentiary principles, provided the evidence meets the ordinary standard of relevance.'' *People* v. *Brown*, supra, 8 Cal. 4th 763.

[4] ''[W]e shall continue to hold admissible both the fact and the details of a fresh complaint.'' *Commonwealth* v. *Licata*, supra, 412 Mass. 658.

[5] The Supreme Judicial Court of Massachusetts, which has refused to abandon the fresh complaint rule, also has noted concern about repetitive testimony from several witnesses regarding the details of the complaint and has instructed trial courts to exclude evidence that ''may lend undue credibility to the complainant's testimony.'' *Commonwealth* v. *Licata*, supra, 412 Mass. 659. ''Fresh complaint evidence is corroborative only if it shows the victim seasonably complained of the attack. Because the evidence is corroborative, the judge may exclude needless repetition of the details of the fresh complaints.'' Id., 660. The Supreme Court of New Jersey also has addressed the issue. See footnote 2.