
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.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the electronic version of an opinion and the print version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest print version is to be considered authoritative.

The syllabus and procedural history accompanying the opinion as it appears on the Commission on Official Legal Publications Electronic Bulletin Board Service and in the Connecticut Law Journal and bound volumes of official reports are copyrighted by the Secretary of the State, State of Connecticut, and may not be reproduced and distributed without the express written permission of the Commission on Official Legal Publications, Judicial Branch, State of Connecticut.

FLYNN, C. J., concurring. I concur in the opinion and the result reached because of the strength of the state's case against the defendant, Tyehimba A. Adeyemi, and agree that with respect to prosecutorial closing argument we are constrained by Supreme Court precedents. I write separately because my sense of justice is offended when either defense counsel or a prosecutor characterizes the testimony of a witness or a defendant who takes the witness stand as a lie.¹

In addressing the records of a cellular telephone call made from a telephone owned by the defendant, the prosecutor implied that the defendant was a liar. In referencing the defendant's testimony about another cellular telephone call that he made to his wife concerning his whereabouts, the prosecutor stated: "That's a complete lie." Later, in addressing different things that the defendant told his wife and the police, the prosecutor argued that "he wasn't truthful"

First, credibility is a jury determination. Such expressions of personal opinion by lawyers intrude on the jury's function. Second, rule 3.4 of the Rules of Professional Conduct specifically states that "[a] lawyer shall not . . . (5) state a personal opinion as to . . . the credibility of a witness" Final arguments that do so violate the plain language of this rule. Final arguments are only made in trials. All trials consist of testimonial or physical evidence or both. Excusing a violation of such a rule when there is some evidence in a case on which to base this eviscerates the rule.

Third, American Bar Association, Standards for Criminal Justice: Prosecution and Defense Function (3d Ed. 1993), prohibit this. Standard 3-5.2, titled "Courtroom Professionalism," requires that "[a]s an officer of the court, the prosecutor should support . . . the dignity of the trial courtroom by strict adherence to codes of professionalism" *Id.*, standard 3-5.2 (a). Although standard 3-5.8, titled "Argument to the Jury," authorizes a prosecutor "[i]n closing argument to the jury" to argue "all reasonable inferences from evidence in the record"; *id.*, standard 3-5.8 (a); subsection (b) of these same standards specifically states that "[t]he prosecutor should not express his or her personal belief or opinion as to the truth or falsity of any testimony or evidence" *Id.*, standard 3-5.8 (b).

Finally, there may be reasons why a witness' testimony is mistaken that relate to his or her lack of ability to remember events and to relate them back at trial truly and accurately. The jury makes the decision whether a witness is simply mistaken or lying.

When our courts of law do not require compliance with professional rules of conduct and accepted

national standards of attorney conduct, public trust and confidence in the judicial system inevitably suffers.

¹ In referring to a statement the defendant made to the police, the prosecutor during cross-examination stated: “That statement is a lie, isn’t it?” Later in the cross-examination, the prosecutor asked the defendant: “The reason why you gave [the police] different versions is because you simply aren’t telling the truth; isn’t that true, sir?”