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LAVINE, J., concurring. I write separately because I believe the case of *State v. Green*, 194 Conn. 258, 480 A.2d 526 (1984), cert. denied, 469 U.S. 1191, 105 S. Ct. 964, 83 L. Ed. 2d 969 (1985), while controlling, deserves to be reconsidered by our Supreme Court. In *Green*, the defendant's intention to sexually assault a woman was thwarted because the zipper on her pants broke. *Id.*, 260. Our Supreme Court concluded that the jury could have convicted the defendant under either prong of the attempt statute: the "attendant circumstances" prong of General Statutes § 53a-49 (a) (1) or the "substantial step" prong of § 53a-49 (a) (2). *Id.*, 276–77. It is my view that the "attendant circumstances" prong was not intended to apply to a situation in which unforeseen subsequent circumstances frustrate someone from achieving a criminal objective. Rather, the "attendant circumstances" prong was intended to abolish any defense of legal or factual impossibility. See Commission to Revise the Criminal Statutes, Penal Code Comments, Conn. Gen. Stat. Ann. § 53a-49 (a) (1) (West 2007), commission comment ("[t]his section sweeps aside any consideration of the defense of impossibility"); see also *State v. Cox*, 293 Conn. 234, 241–46, 977 A.2d 614 (2009) (differentiating § 53a-49 [a] [1] and [a] [2]); *People v. Dlugash*, 41 N.Y.2d 725, 726–27, 732–37, 363 N.E.2d 1155, 395 N.Y.S. 419 (1977) (discussing "attendant circumstances" under New York statute; section applied to defendant who shot dead body believing it to be alive); 4 C. Torcia, Wharton's Criminal Law (15th Ed. 1996) § 697, pp. 626–32; 21 Am. Jur. 2d 267–68, Impossibility as defense § 156 (2008). I question whether the "attendant circumstances" provision ought to apply when an assailant is prevented from stabbing someone solely because a police officer shoots him.

Accordingly, I respectfully concur.
