NORCOTT, J., concurring. For the reasons that are artfully explained in his comprehensively researched concurring opinion, I agree wholeheartedly with Justice Palmer that the time has come to overrule our prior decisions in *State* v. *Kemp*, 199 Conn. 473, 507 A.2d 1387 (1986), and *State* v. *McClendon*, 248 Conn. 572, 730 A.2d 1107 (1999), to the extent that they be read as holding inadmissible expert testimony concerning the reliability of eyewitness identifications. I therefore join him in concluding that, with respect to reliability, the trial court improperly refused to admit into evidence the expert testimony of Jennifer Dysart introduced by the defendant, J'Veil Outing, at the hearing on his motion to suppress eyewitness identification testimony. I write separately, however, to recognize the validity of the majority's prudential concerns about whether this case presents us with the appropriate vehicle for overruling these flawed precedents.

I agree with the majority that this is not the *ideal* case for reconsidering these precedents, because: (1) under well established due process principles, we need not consider the reliability of the identification herein because it was obtained using a procedure that properly was found, after consideration of parts of Dysart's proffered testimony, not to be unnecessarily suggestive; see, e.g., *Manson* v. *Brathwaite*, 432 U.S. 98, 107, 97 S. Ct. 2243, 53 L. Ed. 2d 140 (1977); and (2) there are preservation problems, namely, the defendant's failure to proffer Dysart's expert testimony into evidence at the subsequent jury trial.[1] Given, however, this court's "inherent authority to change and develop the rules of evidence through case-by-case common-law adjudication"; *State* v. *DeJesus*, 288 Conn. 418, 454, 953 A.2d 45 (2008); as well as the hazards of gross injustice presented by *all*[2] eyewitness identification testimony, which are well documented in Justice Palmer's concurring opinion, I simply do not think it appropriate or wise to wait for the "right" record to come before us before we act to correct this dangerously outmoded body of case law. See, e.g., *State* v. *Salamon*, 287 Conn. 509, 520, 949 A.2d 1092 (2008) ("[t]he value of adhering to [past] precedent is not an end in and of itself . . . if the precedent reflects substantive injustice" [internal quotation marks omitted]). Accordingly, I join Justice Palmer's concurring opinion.

[1] I respectfully disagree with the majority's alternate conclusion that we need not address this issue because, in any event, the failure to admit Dysart's expert testimony would have been harmless error. Particularly in the evidentiary field, we previously have overruled prior case law without regard to the fact that the resulting evidentiary error turned out to be harmless. See *State* v. *Malave*, 250 Conn. 722, 740–43, 737 A.2d 442 (1999) (abandoning missing witness rule set forth in *Secondino* v. *New Haven Gas Co.*, 147 Conn. 672, 165 A.2d 598 [1960], but concluding that trial court's missing witness instruction was harmless error on facts of case), cert. denied, 528 U.S. 1170, 120 S. Ct. 1195, 145 L. Ed. 2d 1099 (2000); *George* v. *Ericson*,

250 Conn. 312, 327–28, 736 A.2d 889 (1999) (engaging in harmless error analysis after overruling evidentiary rule precluding testimony by nontreating physician).

[2] On this record, I need not consider separately the significant concerns that attend cross-racial eyewitness identifications in particular. See footnote 14 of Justice Palmer's concurring opinion.