## Ryan Montgomery-Sythe

**From:** Andy L. Pevehouse <alpevehouse@gilmanlawak.com>
**Sent:** Tuesday, October 13, 2020 2:22 PM
**To:** Ryan Montgomery-Sythe
**Subject:** State v. Perzechino

To the Court of Appeals:

Please forgive my response being in email form and not responding by noon. I mean no disrespect to the Court, but am pressed for time. Jury selection continued yesterday and today. My response is these two points:

1. The state prevailed upon its motion to allow videoconference testimony for its witness with health concerns, thus the state is not an "aggrieved party" as required by appellate rule 402(a). The Court need not reach the question of "sound policy" under rule 402(b) because none of the factors in 402(b)(1)-(4) are present. Appellate review should not be permitted.
2. Upon receiving the state's petition for review, Mr. Perzechino promptly waived his prior opposition to the state's motion. Given that the state already prevailed and the motion was unopposed, the state's petition for review is moot.

Respectfully submitted,

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