MOLINEUX MEETS #METOO: EVALUATING THE MEDIA'S COVERAGE OF *PEOPLE V. WEINSTEIN* AND THE NEW YORK COURT OF APPEALS

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TABLE OF CONTENTS

I. INTRODUCTION

Accused sexual predator Harvey Weinstein is entitled to a new trial in New York, according to a controversial, deeply divided decision released by the state's highest court in April 2024.[1] The Court of

[1] *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *1 (N.Y. Apr. 25, 2024); Brian Lee, *NY Court Overturns Harvey Weinstein's Rape Conviction; Holds Admission of 'Molineux' Witnesses*

Appeals held that the now-disgraced former movie producer, who was convicted of sex crimes against numerous women, was denied a fair trial due to "egregious" evidentiary missteps by the trial judge.[2] In light of those perceived errors, the Court overturned Weinstein's New York conviction.[3] The decision garnered mixed reactions from advocates against sexual violence, including those behind the #MeToo movement.[4] Weinstein's conviction is widely regarded as a #MeToo launching point, and the movement has highlighted the stark reality of sexual violence that many people endure.[5]

The trial court's evidentiary rulings, with which the Court of Appeals's majority took great issue, affected what kinds of testimony the jury was allowed to hear. The trial judge allowed three women—who were not complainants in the original action—to testify about their own past experiences with Weinstein.[6] All three said he sexually harassed and/or assaulted them.[7] The problem, according to the Court of Appeals, was that those alleged incidents were not part of Weinstein's charges.[8] As such, the testimony triggered a New York evidentiary principle known as the *Molineux* rule.[9] Under that rule, which is named after a 1901 Court of Appeals decision,[10] the at-issue evidence would "not [be] admissible if it cannot logically be connected to some specific material issue in the case, and tends only to demonstrate the defendant's *propensity* to commit the crime

Was Improper, N.Y.L.J. (Apr. 25, 2024, 1:07 PM), https://www.law.com/newyorklawjournal/2024/04/25/ny-court-overturns-harvey-weinsteins-rape-conviction-holds-admission-of-molineux-witnesses-was-improper/ [https://perma.cc/XBN8-6MEW] [hereinafter N.Y.L.J.].

[2] *See Weinstein*, 2024 WL 1773181, at *1, *2.

[3] *See id.* at *1. Weinstein was also convicted of similar offenses in California. *See* Amy Brittain, *Me Too Movement*, BRITANNICA, https://www.britannica.com/topic/Me-Too-movement [https://perma.cc/C9NG-HHZ7] (May 24, 2024) [hereinafter *Me Too Movement*].

[4] *See, e.g.*, Michael R. Sisak & Dave Collins, *Harvey Weinstein's Rape Conviction Is Overturned by New York's Top Court*, AP NEWS, https://apnews.com/article/weinstein-metoo-appeal-ed29faeec862abf0c071e8bd3574c4a3 [https://perma.cc/V3S2-7ZTT] (Apr. 25, 2024, 8:12 PM); Eric Levenson, *New York Appeals Court Overturns Harvey Weinstein's Sex Crimes Conviction and Orders a New Trial*, CNN, https://www.cnn.com/2024/04/25/us/harvey-weinstein-conviction-overturned-appeal/index.html [https://perma.cc/R2RM-9XUP] (Apr. 27, 2024, 9:27 PM); Lauryn Overhultz & Michael Dorgan, *Harvey Weinstein Rape Conviction Overturned by NY Appeals Court*, FOX NEWS, https://www.foxnews.com/entertainment/harvey-weinstein-rape-conviction-overturned-ny-appeals-court [https://perma.cc/8RW5-5BLH] (Apr. 25, 2024, 9:33 AM).

[5] *Me Too Movement*, *supra* note 3.

[6] *See Weinstein*, 2024 WL 1773181, at *3–4.

[7] *See id.*

[8] *See id.* at *5.

[9] *See id.*

[10] People v. Molineux, 61 N.E. 286 (N.Y. 1901).

charged."[11]   In other words, the *Molineux* witnesses' testimonies would only be admissible if the prosecution showed they were materially relevant and served a purpose other than demonstrating Weinstein's *propensity* for sexually assaulting women.[12]

To meet that burden, the People argued that the *Molineux* testimony demonstrated Weinstein's "forcible intent" during the alleged assaults of the *Molineux* witnesses, which would rebut Weinstein's defense that the complainants consented to sexual relations with him.[13]   Unconvinced by the prosecution's argument, the Court of Appeals held that the *Molineux* testimony should have been excluded at the trial level.[14]   Speaking through Judge Jenny Rivera, the Court defended its analysis as "grounded on bedrock principles of evidence and the defendant's constitutional right to the presumption of innocence and a fair trial."[15]   Judge Rivera continued, "Justice for sexual assault victims is not incompatible with well-established rules of evidence designed to ensure that criminal convictions result only from the illegal conduct charged."[16]   Chief Judge Rowan Wilson joined Judge Rivera's opinion, along with Appellate Division Justices Betsy Barros and Christine Clark, who stood in for recused Judges Caitlin Halligan and Shirley Troutman.[17]

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[11]   *Weinstein*, 2024 WL 1773181, at *5 (emphasis added) (quoting People v. Denson, 42 N.E.3d 676, 681 (N.Y. 2015)).   The Federal Rules of Evidence impose a similar ban on so-called propensity evidence, with some enumerated exceptions.   *See* FED. R. EVID. 404.

[12]   In addition to intent, *Molineux* testimony may be used to establish "motive[,] . . . the absence of mistake or accident[,] . . . a common scheme or plan" to commit multiple related crimes, or "the identity of the person charged."   *Weinstein*, 2024 WL 1773181, at *8 (quoting *Molineux*, 61 N.E. at 294).

[13]   *See Weinstein*, 2024 WL 1773181, at *5.   It is important to note the distinction between which assaults or alleged assaults the testimony describes.   The *Molineux* witnesses testified about what Weinstein allegedly did to *them*, not to the *complainants* whose allegations led to Weinstein's criminal charges.   *See id.* at *3–4.

[14]   *See id.* at *5.

[15]   *Id.* at *1, *6–7; *see* N.Y.L.J., *supra* note 1.

[16]   *Weinstein*, 2024 WL 1773181, at *7.

[17]   N.Y.L.J., *supra* note 1.   Although Chief Judge Wilson did not write the *Weinstein* opinion, the *New York Post* published a full article accusing him of "orchestrat[ing]" "[t]he decision that overturned the molesting movie maven's sex crime conviction."   *See* Vaughn Golden, *Judge Installed by Liberal Democrats over Centrist Hochul Pick Responsible for Harvey Weinstein Ruling*, N.Y. POST (Apr. 26, 2024, 7:03 PM), https://nypost.com/2024/04/26/us-news/albany-liberals-star-judge-damns-precedent-orders-weinstein-trial-re-do/   [https://perma.cc/8BNZ-YL8C].   The piece essentially functions as a political posturing platform for Republican state lawmakers and does little to explain the decision's substance.   *See id.*   Instead, it berates Chief Judge Wilson for choosing Justices Barros and Clark as recusal substitutes for Judges Halligan and Troutman, allows state lawmakers to label him as "unhinged and unqualified" for no apparent reason other than their frustration that the less liberal Hector LaSalle did not become Chief Judge instead, and unquestioningly publishes a false equivalence that compares Weinstein to a Bronx Zoo elephant whose habeas corpus petition was appealed to the Court in 2022.   *See id.*; *see also* Nonhuman Rts. Project, Inc. v. Breheny, 197 N.E.3d 921, 923 (N.Y. 2022).   In that case, then-Associate Judge Wilson dissented against a majority opinion that denied

Judges Madeline Singas and Anthony Cannataro each wrote a dissenting opinion, both of which Judge Michael Garcia joined.[18] The dissents share similar themes, but Judge Singas's opinion is noticeably more impassioned than Judge Cannataro's. Judge Singas accused the majority of "continu[ing] a disturbing trend of overturning juries' guilty verdicts in cases involving sexual violence."[19] She also criticized the majority for treating sexual assault cases as "monolithic" and ignoring various complications associated with "the issue of consent," including "vigorous debate, study, and ever-evolving legal standards."[20] Following from that, Singas cited Court of Appeals precedent to argue that *Molineux* evidence is admissible to prove intent when the defendant's state of mind is not easily inferable from the act itself.[21] In Singas's view, the often-complex questions associated with consent and acquaintance sexual assault (which she differentiated from more stereotypical notions of rape, such as attacks by strangers in isolated public places) contribute to that uncertainty, and they point to an even more obvious need for *Molineux* evidence.[22] As such, Judge Singas believed the trial court properly admitted the *Molineux* testimony. She declared, "Because New York's women deserve better, I dissent."[23] Similarly, Judge Cannataro acknowledged "complex psychological and sociological dynamics" associated with sexual abuse, including delayed reporting and some victims' long-term relationships with their abusers.[24] Although he stopped short of Judge Singas's outspoken declaration that the majority's decision was a disservice to New York's women, he characterized the decision as "an unfortunate step backwards from recent advances in our understanding of how

habeas corpus. *See Nonhuman Rts. Project, Inc.*, 197 N.E.3d at 933 (Wilson, J., dissenting). Quoting a Western New York Republican, the *New York Post*'s story reads, "I guess I'm not surprised coming from a man who tried to give habeas corpus rights to a zoo elephant. That elephant should never be freed, and neither should Harvey Weinstein." Golden, *supra*. The *New York Post* correctly reported in a separate article that Weinstein is not free; he remains incarcerated for his California rape conviction. *See* Ben Kochman, Priscilla DeGregory & Ronny Reyes, *Harvey Weinstein's Felony Sex Crime Conviction Overturned by NY's Highest Court*, N.Y. POST, https://nypost.com/2024/04/25/us-news/harvey-weinsteins-felony-sex-crime-charges-overturned-by-nys-highest-court/ [https://perma.cc/87UZ-MMEL] (Apr. 25, 2024, 10:12 AM).

18 *See* N.Y.L.J., *supra* note 1.

19 *Weinstein*, 2024 WL 1773181, at *11 (Singas, J., dissenting).

20 *Id.* at *12 (citing People v. Regan, 212 N.E.3d 282, 296–300 (N.Y. 2023) (Singas, J., dissenting)).

21 *See Weinstein*, 2024 WL 1773181, at *13 (Singas, J., dissenting) (quoting People v. Alvino, 519 N.E.2d 808, 812–13 (N.Y. 1987)).

22 *See Weinstein*, 2024 WL 1773181, at *13, *15–16 (Singas, J., dissenting).

23 *Id.* at *12, *18.

24 *See id.* at *23 (Cannataro, J., dissenting).

sex crimes are perpetrated and why victims sometimes respond in seemingly counterintuitive ways."[25]

Predictably, the Court's overturning of Weinstein's conviction elicited widespread media coverage. Through that coverage, the news reached millions of Americans in a matter of minutes,[26] shaping their understanding of what happened and why. This Comment argues that the *Weinstein* decision places news organizations—and their successes or failures in fulfilling journalistic obligations to their audiences—under the proverbial microscope.[27] Especially for news consumers without legal education or expertise, journalists' choices and professional judgment will be pivotal in determining how thoroughly the public comprehends the consequences of this ruling.

Instead of critiquing the *Weinstein* decision itself, this Comment evaluates the approaches that fourteen news outlets took in breaking the news to the American public. Those outlets include two wire sources,[28] four newspapers using print and digital platforms,[29] six sources using broadcast and digital platforms,[30] and two public media

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[25] *See id.* at *23.

[26] For context, the *New York Times* reported in February 2024 that it had more than ten million subscribers by the end of 2023. *See* Katie Robertson, *New York Times Co. Adds 300,000 Digital Subscribers in Quarter*, N.Y. TIMES (Feb. 7, 2024), https://www.nytimes.com/2024/02/07/busin ess/media/new-york-times-q4-earnings.html [https://web.archive.org/web/20240605174142/https://www.nytimes.com/2024/02/07/business/media/new-york-times-q4-earnings.html].

[27] The Society of Professional Journalists identifies, among the core tenets of ethical journalism, a duty to "seek truth and report it." SOC'Y OF PRO. JOURNALISTS, SOCIETY OF PROFESSIONAL JOURNALISTS CODE OF ETHICS (2014). As a corollary to that duty, the Code of Ethics says journalists must "[p]rovide context" and "[t]ake special care not to misrepresent or oversimplify in promoting, previewing[,] or summarizing a story." *Id.*

[28] The Associated Press ("AP") and Reuters. *See About Us*, AP, https://www.ap.org/about/ [https://perma.cc/PQ65-4AD4] [hereinafter *About AP News*]; *About Us*, REUTERS, https://www.reutersagency.com/en/about/about-us/ [https://perma.cc/GAE8-XBKU] [hereinafter *About Reuters*].

[29] The *New York Times*, the *Washington Post*, the *Los Angeles Times*, and the *New York Post*. *See Our Strategy*, N.Y. TIMES CO. (Mar. 24, 2022), https://www.nytco.com/press/our-strategy/ [https://perma.cc/7DRB-8G4F] [hereinafter *About New York Times*]; *Washington Post Company History*, WASH. POST, https://www.washingtonpost.com/company-history/ [https://perma.cc/77DG-TGRV] [hereinafter *About Washington Post*]; *About the Los Angeles Times*, L.A. TIMES, https://www.latimes.com/about [https://perma.cc/24YY-AW6P]; *About New York Post*, N.Y. POST, https://nypost.com/about-new-york-post/ [https://perma.cc/967M-P8NJ].

[30] NBC News, CBS News, ABC News, MSNBC, CNN, and Fox News. *See About NBC News Digital*, NBC NEWS (June 26, 2020, 8:28 AM), https://www.nbcnews.com/information/nbc-news-info/about-nbc-news-digital-n1232178 [https://perma.cc/6VLG-U243]; *Our Publishing Principles at CBS News*, CBS NEWS (Aug. 28, 2023, 11:12 AM), https://www.cbsnews.com/news/cbs-news-publishing-principles/ [https://perma.cc/Y3LZ-K6PS] [hereinafter *About CBS News*]; *Do You Have a Tip that You Would Like to Share with ABC News?*, ABC NEWS (Jan. 31, 2022, 2:00 PM), https://abcnews.go.com/US/tip-share-abc-news/story?id=61304290 [https://perma.cc/PRT6-RB7K] [hereinafter *About ABC News*]; *About CNN Digital*, CNN, https://www.cnn.com/about [https://perma.cc/W2XC-GZ7M]; *About*, FOX

sources.[31]   The selected sources reach a national audience and beyond.[32]   They also represent a spectrum of political leanings.[33] Accordingly, this Comment's subsequent sections explore several common themes across those fourteen outlets' early coverage of *Weinstein*: their framing of basic information on the Court of Appeals and its authority, their fundamental word choice to describe the decision, their balance of legal terms and plain language to explain the legal theories underlying the decision, and their characterization of the decision vis-à-vis the #MeToo movement. Although the Court discussed questions other than the *Molineux* ruling, this Comment analyzes news coverage with respect to the *Molineux* question only, because that issue merited the most pervasive mainstream media response.[34]

II. HOW DID NEWS ORGANIZATIONS FRAME THE *WEINSTEIN* DECISION TO THE AMERICAN PUBLIC?

A. Word Choice: "Overturned" Versus "Tossed"

Word choice is a powerful tool in journalism, and its effects can be profound.[35] When informing the public about a decision as culturally prolific as *Weinstein*, the words that news organizations choose for their headlines, sub-headlines, lead sentences, and broadcast scripts shape audiences' first perceptions about what the Court decided.

NEWS, https://www.foxnews.com/about [https://perma.cc/4XWN-HWEN] [hereinafter *About Fox News*].

[31] PBS and NPR. *See About PBS*, PBS, https://www.pbs.org/about/about-pbs/ [https://perma.cc/A5TG-NZZU]; *About NPR*, NPR, https://www.npr.org/about/ [https://perma.cc/JAF5-FRMY].

[32] *See* sources cited *supra* notes 28–31.

[33] *See* ALLSIDES, MEDIA BIAS CHART (2023) (version 9.2); *Los Angeles Times*, ALLSIDES, https://www.allsides.com/news-source/los-angeles-times-bias [https://perma.cc/62QF-VYLZ]; *PBS NewsHour*, ALLSIDES, https://www.allsides.com/news-source/pbs-newshour [https://perma.cc/W2FV-9JMT].

[34] The Court also considered a second evidentiary issue, which dealt with the permissible scope of any cross-examination that Weinstein could face. *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *8 (N.Y. Apr. 25, 2024) (citing People v. Sandoval, 314 N.E.2d 413, 416 (N.Y. 1974)). Additionally, Weinstein's appeal argued that the action against him was time-barred, but the Court of Appeals determined that the lower courts correctly found the action timely. *See Weinstein*, 2024 WL 1773181, at *5.

[35] *See* Kendall Moe & Janet Coats, *Choose Your Words Wisely: The Role of Language in Media Trust*, DIGIT. CONTENT NEXT: INCONTEXT (Nov. 16, 2023), https://digitalcontentnext.org/blog/2023/11/16/choose-your-words-wisely-the-role-of-language-in-media-trust/ [https://perma.cc/MCZ7-SQL6]. In response to studies indicating low public trust in the media, researchers at the University of Florida are creating a "machine-learning tool" to help journalists "identify potentially biased language and . . . make more intentional word choices." *Id.*

Interestingly, while all fourteen of the researched news organizations used the word "overturn" or its derivatives to describe the Court's treatment of Weinstein's conviction in their initial headlines,[36] the AP published a second story—with no byline—whose headline promises to elucidate "why Harvey Weinstein's New York rape conviction was *tossed*."[37] On the surface, "tossed" might seem like a simpler, more conversational way to say the conviction was reversed. But, as any scrupulous journalist should understand, surface-level meanings are not an appropriate place to stop.[38]

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[36] *See, e.g.*, Sisak & Collins, *supra* note 4; Overhultz & Dorgan, *supra* note 4; Levenson, *supra* note 4; Kochman et al., *supra* note 17; Minyvonne Burke, Diana Dasrath & Morgan Smith, *Harvey Weinstein's 2020 Rape Conviction Overturned by New York Appeals Court*, NBC NEWS, https://www.nbcnews.com/news/us-news/harvey-weinsteins-rape-conviction-overturned-rcna149328 [https://perma.cc/BTE3-AZRL] (Apr. 25, 2024, 2:42 PM); Clarissa-Jan Lim, *Harvey Weinstein's N.Y. Felony Sex Crimes Conviction Is Overturned*, MSNBC (Apr. 25, 2024, 9:52 AM), https://www.msnbc.com/top-stories/latest/harvey-weinstein-appeal-conviction-overturned-rcna149326 [https://perma.cc/X9TX-PC77]; Jonathan Stempel & Brendan Pierson, *Harvey Weinstein's Rape Conviction Is Overturned by Top New York Court*, REUTERS, https://www.reuters.com/world/us/new-york-top-court-overturns-former-hollywood-producer-weinsteins-conviction-2024-04-25/ [https://wayback-api.archive.org/web/20240606185026/https://www.reuters.com/world/us/new-york-top-court-overturns-former-hollywood-producer-weinsteins-conviction-2024-04-25/] (Apr. 26, 2024, 2:10 AM); Live Coverage of Harvey Weinstein's New York Conviction Overturned, N.Y. TIMES, https://www.nytimes.com/live/2024/04/25/nyregion/harvey-weinstein-appeal [https://wayback-api.archive.org/web/20240606194026/https://www.nytimes.com/live/2024/04/25/nyregion/harvey-weinstein-appeal] (May 23, 2024) [hereinafter *Harvey Weinstein's New York Conviction Is Overturned*]; Samantha Chery, Mark Berman, Herb Scribner & Janay Kingsberry, *New York's Highest Court Overturns Harvey Weinstein's Rape Conviction*, WASH. POST, https://www.washingtonpost.com/style/power/2024/04/25/harvey-weinstein-conviction-overturned/ [https://perma.cc/SAM4-4RJK] (Apr. 25, 2024, 10:53 AM); Jenny Jarvie, Richard Winton & Stephen Battaglio, *Harvey Weinstein Rape Conviction Overturned by N.Y. Court; California Conviction Stays*, L.A. TIMES, https://www.latimes.com/world-nation/story/2024-04-25/harvey-weinsteins-sex-crimes-convictions-overturned-by-new-york-court [https://perma.cc/FBB5-DD5A] (Apr. 25, 2024, 3:20 PM); Kerry Breen, *Harvey Weinstein's 2020 Rape Conviction Overturned by New York's Highest Court*, CBS NEWS, https://www.cbsnews.com/news/harvey-weinstein-rape-conviction-overturned-appeal-new-york/ [https://perma.cc/JK7X-GVBZ] (Apr. 25, 2024, 8:34 PM); Aaron Katersky & Josh Margolin, *Harvey Weinstein's Rape Conviction Overturned in New York; DA Will Attempt to Retry*, ABC NEWS (Apr. 25, 2024, 4:54 PM), https://abcnews.go.com/US/harvey-weinstein-conviction-overturned-new-york/story?id=109621776 [https://perma.cc/3QAJ-HYFJ]; Amna Nawaz & Shoshana Dubnow, *What Led a New York Appeals Court to Overturn Harvey Weinstein's Rape Conviction*, PBS (Apr. 25, 2024, 6:45 PM), https://www.pbs.org/newshour/show/what-led-a-new-york-appeals-court-to-overturn-harvey-weinsteins-rape-conviction#transcript [https://perma.cc/N8MR-MWJV]; Anastasia Tsioulcas, *Harvey Weinstein's 2020 Sex Crimes Conviction in New York Overturned*, NPR (Apr. 25, 2024, 10:58 AM), https://www.npr.org/2024/04/25/1247131054/harvey-weinsteins-2020-sex-crimes-conviction-in-new-york-overturned [https://perma.cc/PMR2-K6EA].

[37] *See Here's Why Harvey Weinstein's New York Rape Conviction Was Tossed and What Happens Next*, AP NEWS, https://apnews.com/article/weinstein-rape-overturned-metoo-whats-happening-3610385d7e05cabebed954b6b85f579d [https://perma.cc/TQ8V-LECJ] (Apr. 25, 2024, 8:02 PM) (emphasis added).

[38] *See* Moe & Coats, *supra* note 35.

Looking at the word's dictionary definition, the transitive verb form of "toss" means "to throw with a quick, light, or *careless* motion or with a sudden jerk."[39] Although the word applies figuratively in the headline, based on this definition, the notion of a court "tossing" a conviction implies the absence of care or attention.

Regardless of one's stance on the case's outcome, even a cursory reading of Judge Rivera's opinion shows that the Court did not simply "toss" the conviction without deliberate attention to the underlying legal doctrines and facts. Rather, Judge Rivera described the allegations of each complainant and each *Molineux* witness, expert testimony offered by the prosecution on rape trauma syndrome from a forensic psychiatrist, and the trial judge's specific instructions to the jury after the *Molineux* evidence was admitted.[40] From there, she not only summarized the *Molineux* standard within the corresponding precedential landscape, but also distilled the Court's analysis into two discrete steps for the reader's benefit.[41]

It is possible that the AP simply wanted a conversational, easily understandable headline for its readers—or aimed to vary its headline language from a different story published that same day.[42] But using the word "tossed" was an indiscretion. The headline's wording risks misleading readers into thinking that the Court cavalierly reversed Weinstein's conviction with little concern for its substance. In reality, the opinion's own text strongly suggests otherwise.

B. Acquainting Audiences with the Court of Appeals and Its Authority

It is well documented that many Americans are unfamiliar with how the federal judiciary functions.[43] The same tends to be true of New Yorkers and their state judiciary.[44] Accordingly, in framing the

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[39] *Toss*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/toss [https://perma.cc/4AT3-QSAU] (emphasis added).

[40] *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *2–4 (N.Y. Apr. 25, 2024).

[41] *See id.* at *5.

[42] *Compare Here's Why Harvey Weinstein's New York Rape Conviction Was Tossed and What Happens Next*, *supra* note 37, *with* Sisak & Collins, *supra* note 4.

[43] *See, e.g.*, Scott Bomboy, *Surveys: Many Americans Know Little About the Supreme Court*, NAT'L CONST. CTR. (Feb. 17, 2016), https://constitutioncenter.org/blog/surveys-many-americans-know-little-about-the-supreme-court [https://perma.cc/RU4M-988T]; Natalie Anne Knowlton, *Trusting the Public's Perception of Our Justice System*, UNIV. OF DENVER: IAALS (Aug. 27, 2020), https://iaals.du.edu/blog/trusting-public-s-perception-our-justice-system [https://perma.cc/XES4-H5EX].

[44] I worked as a broadcast and digital news producer in Syracuse from 2020 to 2022. While collaborating closely with an experienced news anchor on a story about a Court of Appeals

Weinstein decision to New Yorkers (and, more broadly, to Americans in other states), news organizations must contextualize the Court of Appeals's position, role, and authority for audience members who may be totally unfamiliar with the Court.[45]

Of all the news outlets researched, the *New York Times* most successfully overcame that hurdle. While most of the other outlets contextualized the Court as New York's highest,[46] the *New York Times* published a list of "five takeaways" following the decision's release.[47] It also published a section titled, *What Is the Court of Appeals, and How Does It Work?*[48] That section, albeit brief, appears before most of the substantive analysis and orients the reader.[49] In addition to explaining that the Court of Appeals is New York's top court, the piece teaches readers that the Court has "the final say" on New York cases before they can be appealed to the United States Supreme Court.[50] The explainer is not immune to critique, however. Although it clearly states that the Court of Appeals is a seven-judge court led by Chief Judge Wilson, it fails to mention that two judges recused themselves.[51] Thus, even though the piece correctly reports the 4-3 decision,[52] readers unaware of the recusals would not know that Judges Halligan and Troutman were replaced by two Appellate Division justices.[53] To some readers, this distinction might not make any difference whatsoever. Nevertheless, it highlights an ambiguity that the *New York Times* failed to address in that specific story.[54]

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decision, the anchor instructed me not to use the phrase "Court of Appeals" in my scripts. When I asked why, he replied, "Because the viewers don't know what that means." Instead, we always referred to the Court as "New York's highest court."

[45] To make matters more confusing for news consumers without legal expertise or education—especially those outside New York—our state's judicial nomenclature is markedly different from most other states'. *See State Supreme Courts*, BALLOTPEDIA, https://ballotpedia.org/State_supreme_courts [https://perma.cc/BT3N-LDTK]. Most states refer to their highest court as "Supreme Court," while New York does not. *See id.*

[46] *See, e.g.*, Tsioulcas, *supra* note 36, at 0:01; Nawaz & Dubnow, *supra* note 36, at 0:01; Lim, *supra* note 36; Sisak & Collins, *supra* note 4; Kochman et al., *supra* note 17; Stempel & Pierson, *supra* note 36; Breen, *supra* note 36; Katersky & Margolin, *supra* note 36.

[47] *See Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36.

[48] *Id.*

[49] *See id.*

[50] *Id.*

[51] *See id.*

[52] *Id.*

[53] *See id.*; N.Y.L.J., *supra* note 1.

[54] In the newspaper's defense, the *New York Times* published a separate article where its staff annotated the full text of the *Weinstein* decision. *See The Harvey Weinstein Appeal Ruling, Annotated*, N.Y. TIMES (Apr. 25, 2024), https://www.nytimes.com/interactive/2024/04/25/nyreg ion/weinstein-appeal-ruling-overturned-ny.html [https://perma.cc/4UJR-TUH6]. For readers curious about the decision itself—and which specific judges were involved—the *New York Times*'s annotated decision piece is an easily understandable resource. Fox News also provided

Also notable is the *Washington Post*'s characterization of the Court's role—although for a rather strange reason. As a whole, its piece is informative. However, after referring to the Court by its full name with no explanation of its status or function, the story reads, "The court *suggested* a retrial, ruling that the original judge had improperly allowed women to testify about allegations that Weinstein wasn't on trial for."[55] Framing the Court's holding as a *suggestion* is misleading—and somewhat puzzling—given that the opinion explicitly *ordered* a new trial.[56] It is unclear why the *Washington Post* framed the Court's order for a new trial as mere persuasive guidance, or whether its staffers even intended or noticed such framing during the editorial process. Regardless, in another example of how word choice matters immensely in journalism, the *Washington Post* does its readers a disservice by incorrectly contextualizing the legal weight of this decision.

III. Introducing the Doctrine: How Successfully Did News Organizations Convert *Molineux* and Its Legal Terms into Plain Language?

Covering judicial decisions and other legal matters brings an added challenge for journalists; they must effectively "translate legal jargon" into digestible terms for audiences.[57] Indeed, readers, viewers, and listeners should not need a law degree to get an accurate, informed account of the *Weinstein* decision's implications. Although Judge Rivera's opinion is not particularly heavy on legal jargon, it still discusses terms like *material issues*, *direct relevance* of the *Molineux* testimony to those issues, and the prosecution's burden of showing a *non-propensity purpose* for the *Molineux* testimony.[58] Although those terms' dictionary definitions are generally understood, they carry additional legal significance in this case.[59]

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the original opinion in its coverage, but it did not annotate the text. *See* Overhultz & Dorgan, *supra* note 4.

[55] Chery et al., *supra* note 36 (emphasis added).

[56] *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *11 (N.Y. Apr. 25, 2024) ("The trial court's rulings ran afoul of . . . time-honored evidence rules. Accordingly, the order of the Appellate Division should be reversed, *and a new trial ordered*." (emphasis added)).

[57] *See* Admin. Off. of the U.S. Courts, A Journalist's Guide to the Federal Courts 2 (2020).

[58] *See Weinstein*, 2024 WL 1773181, at *5, *7 n.10 (first quoting People v. Cass, 965 N.E.2d 918, 924 (N.Y. 2012); then citing People v. Denson, 42 N.E.3d 676, 682 (N.Y. 2015); and then quoting People v. Hardy, 535 N.E.2d 250, 258 (N.Y. 1988)).

[59] *Compare Weinstein*, 2024 WL 1773181, at *5 ("[E]vidence of a defendant's uncharged crimes or prior misconduct is not admissible if it cannot logically be connected to some specific material issue in the case, and tends only to demonstrate the defendant's propensity to commit the crime

Accordingly, journalists are responsible for distilling those legal terms into plain-language definitions or synonyms without abandoning their legal meanings. News outlets can accomplish that goal without mentioning *Molineux* by name, although some readers might be interested in knowing where the rule originated.

Fortunately, nearly every news organization researched for this Comment summarized the *Molineux* issue accurately.[60] Most did not mention *Molineux* by name,[61] but a few did.[62] Several of the broadcast news sources, however, share some common shortcomings and inconsistencies between their televised and digital coverage. Television news networks often publish online content to supplement their televised newscasts—as they did here—and include clips from

charged . . . . Molineux evidence . . . relevant to some material fact in the case, other than the defendant's propensity to commit the crime charged, . . . is not to be excluded merely because it shows that the defendant had committed other crimes . . . ." (quoting *Denson*, 42 N.E.3d at 682)), *with Material*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/material [https://perma.cc/STJ6-4VQ6] (defining "material" as "having real importance or great consequence"), *Issue*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/issue [https://perma.cc/4RQB-QLAD] (defining "issue" as "a matter that is in dispute"), *and Direct*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/direct [https://perma.cc/V3C5-KKBQ] (defining "direct" as "characterized by close logical, causal, or consequential relationship"), *Relevance*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/relevance [https://perma.cc/5W9J-9N2R] (defining "relevance" as "relation to the matter at hand"), *and Propensity*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/propensity [https://perma.cc/9AVJ-YPX3] (defining "propensity" as "a[] . . . natural inclination or preference"), *Purpose*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/purpose [https://perma.cc/FWY9-DUVE] (defining "purpose" as "something set up as an . . . end to be attained").

[60] *See, e.g.*, Sisak & Collins, *supra* note 4; Overhultz & Dorgan, *supra* note 4; Levenson, *supra* note 4; Kochman et al., *supra* note 17; Breen, *supra* note 36; Lim, *supra* note 36; Chery et al., *supra* note 36; Jarvie et al., *supra* note 36; Nawaz & Dubnow, *supra* note 36, at 1:47; Tsioulcas, *supra* note 36, at 1:10; *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36. CNN published one of the more successful *Molineux* explanations. It produced video of an in-studio interview with investigative journalist Ronan Farrow, whose reporting helped expose Weinstein's sexual misconduct. *See* Erin Burnett, *Ronan Farrow: This Is a Parallel Between Trump and Weinstein's Cases*, CNN (April 25, 2024), https://www.cnn.com/2024/04/25/us/video/harvey-weinstein-trump-trial-ronan-farrow-ebof-intv-digvid; *Me Too Movement*, *supra* note 3. Farrow, a Yale Law School graduate, eloquently summed up the *Molineux* rule in lay terms and related the doctrine to Donald Trump's ongoing "hush money" trial. *See* Burnett, *supra*; Marisa Guthrie, *Ronan Farrow, the Hollywood Prince Who Torched the Castle*, HOLLYWOOD REP. (Jan. 10, 2018), https://www.hollywoodreporter.com/movies/movie-features/ronan-farrow-hollywood-prince-who-torched-castle-1073405/ [https://perma.cc/GDV7-RZ7X].

[61] *See, e.g.*, Sisak & Collins, *supra* note 4; Overhultz & Dorgan, *supra* note 4; Levenson, *supra* note 4; Kochman et al., *supra* note 17; Burke et al., *supra* note 36; Lim, *supra* note 36; Jarvie et al., *supra* note 36; Nawaz & Dubnow, *supra* note 36; Breen, *supra* note 36; Katersky & Margolin, *supra* note 36; Stempel & Pierson, *supra* note 36.

[62] *See, e.g.*, Tsioulcas, *supra* note 36, at 1:35; *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36; Chery et al., *supra* note 36.

their newscasts within their online articles.[63] Some (though not all) of the written articles successfully introduce the basics of *Molineux*.[64] The corresponding televised content, however, consistently lacks detail. For example, although CBS News aired a broadcast package that alludes to the *Molineux* issue and even includes a soundbite from a network legal analyst,[65] it could have further clarified in non-legal terms (as its online article does) why the Court of Appeals found that the *Molineux* testimony should not have been admitted.[66] While the video package is informative and includes some description in lay terms,[67] a potential overload of legal terminology puts viewers at risk of missing key details. Even still, CBS's broadcast package is structured far better than the one ABC News aired, which consists largely of the reporter reading directly from the decision's text with minimal clarification of the Court's words.[68] In short, after watching ABC's package, a news consumer would simply have had excerpts of the decision read to them verbatim, with barely any translation into lay terms. At that point, viewers might be better off reading and interpreting the Court's opinion themselves. However, the reality is that many Americans do not have the time or expertise to do that,[69] which is a reason why they might turn to news outlets in the first place.

Outside of the broadcast category, the internationally known wire source *Reuters*[70] treated the *Molineux* issue with minimal detail, essentially sacrificing crucial legal background for extended commentary on high-profile reactions and Judge Singas's dissent.[71] *Reuters* waited until its story's fourth paragraph to say, "In a bitterly

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[63] *See, e.g.*, Burke et al., *supra* note 36; Lim, *supra* note 36; Breen, *supra* note 36; Katersky & Margolin, *supra* note 36.

[64] For example, CBS News appropriately wrote, "The court found that the [trial] judge . . . had made a mistake by allowing prosecutors to call witnesses whose accusations were not part of the charges against [Weinstein]." Breen, *supra* note 36. The story goes on to explain the Court of Appeals's reasoning as to why the impermissible *Molineux* testimony "diminished Weinstein's character before a jury," and briefly addresses the general ban on propensity evidence. *See id.* On the other hand, both NBC News and ABC News quoted directly from the Court of Appeals decision without explaining what constitutes a "material non-propensity purpose." *See* Burke et al., *supra* note 36; Katersky & Margolin, *supra* note 36.

[65] *See* Breen, *supra* note 36, at 0:57. The legal analyst said, "He would get a more fair trial, according to the Court of Appeals, because these other prior bad act witnesses will be excluded." *Id.* The on-air reporter was Jericka Duncan. *Id.* at 0:11.

[66] *See id.*

[67] *See id.* at 0:45.

[68] *See* Katersky & Margolin, *supra* note 36, at 0:32. The on-air reporter was Eva Pilgrim. *Id.* at 0:17.

[69] *See* Bomboy, *supra* note 43; Knowlton, *supra* note 43.

[70] *About Reuters*, *supra* note 28.

[71] *See* Stempel & Pierson, *supra* note 36.

divided 4-3 ruling, the state Court of Appeals said the trial judge made a critical mistake by letting women testify that Weinstein assaulted them, even though their accusations were not part of the charges he faced."[72] Nothing in that short summary is inaccurate. However, it does lack critical context and elaboration. Rather than define the *Molineux* standard more thoroughly, *Reuters*'s story suggests that the Court of Appeals simply disapproved of the *Molineux* witnesses' testimony.[73] Importantly, this lackluster account of the applicable law comes two paragraphs behind a quotation from actress Ashley Judd[74] (who, although not a complainant in the case, has accused Weinstein of sexual misconduct).[75]

Judd, whose frustration is more than understandable and warranted, called the decision "an act of institutional betrayal."[76] Her opinion is valid, and Weinstein's alleged predatory behavior towards her is deeply disturbing.[77] But, from a journalistic standpoint, it is disappointing that *Reuters* prioritized buzzwords like "betrayal" before introducing its audience to any of the decision's legal underpinnings or the Court's reasoning.[78] *Reuters* also failed to clarify that the Court did not exonerate Weinstein or question the *Molineux* witnesses' honesty.[79] Indeed, the Court ordered a new trial, with the full possibility that Weinstein would be convicted again.[80] Although many readers might agree with Judd, it is inappropriate for a news organization to push any narrative over another. Unfortunately, by framing the Court's decision as "institutional betrayal" from the start of its coverage, *Reuters* hindered its audience's opportunity to learn about the key legal issues of such a culturally significant case.

IV. *MOLINEUX* AND #METOO: HOW DID NEWS OUTLETS CHARACTERIZE THE RELATIONSHIP BETWEEN THE COURT'S DECISION

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[72] *Id.*

[73] *See id.*

[74] *See id.*

[75] *See id.*; *Me Too Movement*, *supra* note 3.

[76] Stempel & Pierson, *supra* note 36; *see* Judd v. Weinstein, 967 F.3d 952, 953–54 (9th Cir. 2020).

[77] *Judd*, 967 F.3d at 953–54.

[78] *See* Stempel & Pierson, *supra* note 36.

[79] *See id.*

[80] *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *6–7, *11 (N.Y. Apr. 25, 2024) (ordering a new trial for procedural reasons, as opposed to disparaging the substantive testimony of the *Molineux* witnesses).

AND THE ONGOING MOVEMENT AGAINST SEXUAL VIOLENCE?

Given Weinstein's connection to the #MeToo movement's origins,[81] early media coverage of *People v. Weinstein* focused heavily on the decision's possible implications for survivors of sexual violence. Media outlets were correct to highlight the case's relationship with #MeToo. To do otherwise would mean ignoring the trauma of Weinstein's accusers, whose courage to come forward helped get the case into court and showed sexual assault survivors across America that they are not alone.[82]

The media connected *Weinstein* to #MeToo—and sexual violence generally—through its repeated references to the decision's dissents. Judge Singas's opinion steered the coverage more than Judge Cannataro's did,[83] with outlets using adjectives like "fiery,"[84] "stinging,"[85] and "scathing"[86] to describe her unequivocal disagreement. By spotlighting Singas's accusations that the majority's decision perpetuated "a disturbing trend of overturning juries' guilty verdicts in [sexual assault] cases,"[87] news organizations gave audiences a somewhat inside look at the case's deep divisiveness within the Court.[88] Indeed, half the surveyed news sources directly quoted that portion of Judge Singas's dissent.[89] The impact of that emphasis becomes clearer when analyzed among news outlets' specific references to #MeToo.

Most of the researched sources highlighted the case's ties to #MeToo by quoting some combination of #MeToo advocates,

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[81] *See supra* text accompanying note 5.

[82] *See* Jodi Kantor & Megan Twohey, *Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades*, N.Y. TIMES (Oct. 5, 2017), https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html [https://web.archive.org/web/20240609020648/https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html]; *Me Too Movement*, *supra* note 3.

[83] *See, e.g.*, Kochman et al., *supra* note 17; Levenson, *supra* note 4; Jarvie et al., *supra* note 36; Stempel & Pierson, *supra* note 36. There are a few notable exceptions. ABC News, MSNBC, and Fox News did not discuss either dissent in their initial reporting. *See* Katersky & Margolin, *supra* note 36; Lim, *supra* note 36; Overhultz & Dorgan, *supra* note 4.

[84] *E.g.*, *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36; *see The Harvey Weinstein Appeal Ruling, Annotated*, *supra* note 54.

[85] *E.g.*, Levenson, *supra* note 4; Sisak & Collins, *supra* note 4.

[86] *E.g.*, Kochman et al., *supra* note 17.

[87] People v. Weinstein, No. 24, 2024 WL 1773181, at *11 (N.Y. Apr. 25, 2024) (Singas, J., dissenting).

[88] *See* Jarvie et al., *supra* note 36; Burke et al., *supra* note 36; Kochman et al., *supra* note 17; Chery et al., *supra* note 36; *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36; Stempel & Pierson, *supra* note 36; Sisak & Collins, *supra* note 4.

[89] *See* sources cited *supra* note 88.

Weinstein's defense attorneys, and others with legal expertise.[90] Judd was the most frequently quoted Weinstein accuser,[91] and her specific remark on "institutional betrayal" appears in approximately a third of the outlets' written coverage.[92] She was also quoted as saying, in response to the decision, "This is what it's like to be a woman in America, living with male entitlement to our bodies."[93] Additionally, she brought up the truth of the accusers' testimony: "We still live in our truth . . . and we know what happened."[94] Conversely, Weinstein defense attorney Arthur Aidala's remarks focused on the perceived unfairness of Weinstein's trial.[95] He did, however, comment on the decision's gender-focused implications by calling Judge Rivera, as the decision's author, a "real hero for women."[96] Interestingly, the *New York Times* was the only news outlet among those researched to publish that remark in an easily

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[90] *See* sources cited *supra* note 36. The surveyed news sources quoted many of the same people; however, a significant exception is the *Los Angeles Times*' and CBS News' decisions to quote California Governor Gavin Newsom. *See* Jarvie et al., *supra* note 36; Breen, *supra* note 36. He is married to Jennifer Siebel Newsom, a filmmaker who testified during Weinstein's trial that Weinstein had raped her in 2005. *See* Nouran Salahieh, *Jennifer Siebel Newsom, Wife of California Gov. Gavin Newsom, Testifies that Harvey Weinstein Raped Her*, CNN, https://www.cnn.com/2022/11/14/us/jennifer-siebel-newsom-harvey-weinstein-trial/index.html [https://perma.cc/NLX7-9SAW] (Nov. 15, 2022, 8:59 AM). Accordingly, it is obvious and understandable that Governor Newsom has a personal stake in the overturn of Weinstein's conviction. The *Los Angeles Times* quoted him as saying, "Those who seek to somehow exonerate or explain away Harvey Weinstein's behavior should . . . be ashamed of themselves." Jarvie et al., *supra* note 36. Although Governor Newsom did not say that the Court exonerated Weinstein, his quotation—in the context that the *Los Angeles Times* placed around it— insinuates that it did. Such framing shows poor judgment by the *Los Angeles Times*. At minimum, it should have added a line clarifying that the Court of Appeals's decision did not exonerate Weinstein, clear him of any charges, or suggest that his accusers lied.

[91] *See, e.g.*, Sisak & Collins, *supra* note 4; Stempel & Pierson, *supra* note 36; Chery et al., *supra* note 36; Burke et al., *supra* note 36; Lim, *supra* note 36; Nawaz & Dubnow, *supra* note 36, at 2:36; Katersky & Margolin, *supra* note 36; *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36; Overhultz & Dorgan, *supra* note 4; Jarvie et al., *supra* note 36; Breen, *supra* note 36; Tsioulcas, *supra* note 36, at 0:17.

[92] *See, e.g.*, Overhultz & Dorgan, *supra* note 4; Tsioulcas, *supra* note 36, at 0:17; Jarvie et al., *supra* note 36; Stempel & Pierson, *supra* note 36; Nawaz & Dubnow, *supra* note 36, 2:36.

[93] Sisak & Collins, *supra* note 4; *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36. Other sources quoted Judd as using the phrase "male entitlement" in other ways to characterize the decision. *See, e.g.*, Overhultz & Dorgan, *supra* note 4; Katersky & Margolin, *supra* note 36. Fox News even published what appears to be five minutes of uncut, unedited footage of Judd speaking at a media event after the decision was revealed. *See* Overhultz & Dorgan, *supra* note 4.

[94] Lim, *supra* note 36. It is important to point out that the Court did not question the veracity of the witnesses' testimonies. *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *6–7, *11 (N.Y. Apr. 25, 2024) (ordering a new trial based on broken evidence rules, making no commentary on whether the at-issue testimony was factually true).

[95] *See, e.g.*, *Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36 (quoting Aidala as saying, during a news conference after the decision's announcement, that the defense team "knew that Harvey Weinstein did not get a fair trial").

[96] *See id.*

findable place.[97] In addition, the *Los Angeles Times* and the *New York Times* were the only outlets to point out explicitly that women outnumbered men on the Court of Appeals bench that decided this case.[98]

Between those competing quotations, some outlets explicitly or impliedly called the decision a "setback" for the #MeToo movement.[99] Without a doubt, for Judd and other Weinstein accusers, that is true. But the Court of Appeals's majority addressed those very concerns in its opinion, arguing why its decision is *not* an institutional backslide. Responding directly to the dissenters' criticisms, Judge Rivera wrote, "The proper method for dispelling rape myths in 'nuanced and complex' cases is the one deployed by the prosecution here: educating jurors about rape myths and social misperceptions about sexual assault with expert testimony explaining rape trauma and survivor responses."[100] Of the news organizations surveyed, only the *New York Times* reported on that aspect of the majority's opinion.[101] As for the others, to put it plainly, that omission should not have slipped past their senior editors and producers. Characterizing the decision as a #MeToo setback without acknowledging the Court's rebuttal to similar accusations, already made by the dissenters before the decision went public,[102] constitutes unbalanced reporting. Furthermore, the majority's response is prominently featured in the opinion's main text and in lengthy, clearly marked footnotes.[103] An attentive reader can easily see it. Accordingly, there is simply no excuse for the failure of most news organizations to mention the majority's rebuttal in news coverage of the *Weinstein* decision.

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[97] *Compare id.*, *with* remaining sources cited *supra* note 36.

[98] *Compare* Jarvie et al., *supra* note 36, *and Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36, *with* remaining sources cited *supra* note 36.

[99] *See, e.g.*, Lim, *supra* note 36 ("The decision is a setback for the #MeToo reckoning, which exploded into the public consciousness after the allegations of sexual abuse against Weinstein were made public in 2017."); Sisak & Collins, *supra* note 4; Kochman et al., *supra* note 17; Stempel & Pierson, *supra* note 36 (noting that the "New York conviction *had* been considered a milestone for the #MeToo movement," while the decision "reopen[ed] the landmark case that fueled the #MeToo movement and highlight[ed] the challenges of holding powerful men accountable" (emphasis added)); Levenson, *supra* note 4 (commenting that "#MeToo has had mixed success in the courtroom, and this is the second high-profile case to be overturned on appeal," the other being Bill Cosby's).

[100] *See* People v. Weinstein, No. 24, 2024 WL 1773181, at *7 (N.Y. Apr. 25, 2024) (citation omitted) (citing People v. Taylor, 552 N.E.2d 131, 136 (N.Y. 1990)).

[101] *Compare The Harvey Weinstein Appeal Ruling, Annotated*, *supra* note 54, *with* sources cited *supra* note 36.

[102] *See supra* notes 18–25 and accompanying text.

[103] *See Weinstein*, 2024 WL 1773181, at *7 & n.10.

V. CONCLUSION

The New York Court of Appeals's decision in *People v. Weinstein* is both a legal and cultural landmark. From the moment the Court released the decision, it became "fair game" for news reports, analysis, commentary, and criticism. In circumstances like this— where a legal decision is so closely tied to a contemporary social movement—choices that news organizations make in their initial reporting have immense power to build or undermine the public's understanding of the judicial decision's basis and impact. A number of common threads have already emerged from early news coverage on *Weinstein*, with the most important being a renewed focus on the #MeToo movement and its relationship to the legal system.[104] As survivors continue to speak up about sexual harassment, abuse, and assault, the courts will likely see more cases like Weinstein's. Accordingly, the media's response has strong potential to influence public perception and understanding of the legal system, the judiciary, and the courts' role as arbiters in sexual assault cases. Although the full extent of that influence remains to be seen due to *Weinstein*'s recency, the case represents a critical and revealing convergence of the judiciary, the public, and the media.

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[104] *See Harvey Weinstein's New York Conviction Is Overturned*, *supra* note 36 (noting that National Women's Law Center chief executive Fatima Goss Graves said that the "decision would only invigorate the #MeToo movement[:] 'One well-known case does not define this movement,'" and quoting Dr. Tomi-Ann Roberts as saying, "I can hope . . . that [the decision] re-energizes the #MeToo movement to demand that the criminal and civil justice systems do better at holding perpetrators accountable"); Chery et al., *supra* note 36 (quoting the #MeToo movement founder Tarana Burke as saying, "[t]his moment and this decision actually means that we have a movement").