

IMPEACHMENT/PSI

[State v. Amidon](#), 2008 VT 122

Pursuant to a plea agreement, defendant pled guilty, but the court reserved decision until after the PSI. The defendant had made statements in the PSI that indicated that the complainant had said no, and he didn't listen. After the PSI was filed, Judge Howard rejected the proposed plea agreement. At trial, the Bennington prosecutor notified the defense of its intention to use the defendant's statements in the PSI. Frederick vehemently objected under V.R.Cr.P. 11 and V.R.E. 410 and pointed out the chilling effect this would have on plea negotiations. The judge ruled that [State v. Brunelle](#) permitted the state to use those statements to impeach the defendant if he testified contrary to the PSI. The defendant did not testify and the statements did not come in. On appeal, the Court agreed that defendant did not need to testify to preserve this issue as it was a purely legal issue, and agreed that Rule 11 and V.R.E. 410 do not permit an impeachment exception. [State v. Brunelle](#) does not apply here, in part, because the inherently coercive nature of the defendant having to admit to facts in order to obtain a more lenient sentence reduces the reliability of the statements.