Editorials

Wiretap flaw
Protecting criminals

In a most welcome decision, the state Supreme Court on Wednesday upheld the conviction of Kristin Ruggiero. She is the former Kingston woman who framed her ex-husband for threatening her and violating a restraining order, saw him convicted, then wound up in prison herself when the deception was uncovered by the fine work of the Kingston Police Department. (She was found dead in prison Wednesday.)

Ruggiero had appealed her conviction in part by claiming that her ex-husband violated the state wiretap law. He had presented information to the court that he learned via phone calls she made to him from the cell phone account she created for the purpose of framing him. She argued that the evidence should be thrown out because he violated the wiretap law in presenting it to the court. The law prohibits anyone from sharing illegal recordings.

The court threw out that claim by noting that Ruggiero's ex-husband was in South Carolina, not New Hampshire, at the time and, therefore, the state statute did not apply to him. That's great for him. But what if he happened to have been in New Hampshire?

The wiretap statute makes no mention of the content of conversations being recorded or of the relationship of the parties to the conversation. It simply prohibits people from recording others without their permission or sharing these recordings. That means that no one receiving criminal threats or witnessing a crime that is not taking place in public view can legally record it and present the recordings as evidence in court. It also prevents people involved in contentious domestic disputes from using audio recordings of disagreements. In 1999, the state Supreme Court upheld the civil conviction of one David Hooper who, upon the recommendation of the guardian ad-litem, had recorded conversations with his former spouse regarding the care of their young daughter.

Legislators, who will consider changes to the wiretap law early next year, need to mull ways to fix these flaws.