NORCOTT, J., with whom ZARELLA and SULLIVAN, Js., join, concurring in part. I agree with and join the well reasoned analysis in part II of the majority opinion. I write separately, however, because I disagree in part with the standard of review discussion contained in part I of the majority opinion. In my view, the ambiguous statement that confronts us in this case—" 'I got Richie. I got him good.' "—which was made by the victim to an acquaintance in reference to the defendant, Richard Saucier, is a paradigmatic example of why we should review all purely evidentiary claims, including determinations of whether out-of-court statements are hearsay, solely for abuse of the trial court's discretion.[1]

In part I of its opinion, the majority rejects what it calls a "categorical" or "bright line" approach to determining the standard of review applicable to evidentiary claims on appeal, noting that "application of either [the plenary or the abuse of discretion] standard will afford unwarranted deference in some cases and unwarranted interference in others, irrespective of the differing nature of inquiries at issue depending on the type of statement and the rule of evidence implicated." The majority adopts a "more nuanced approach" whereby it considers the "nature of the ruling at issue in the context of the issues in the case." It then concludes that "whether a challenged statement properly may be classified as hearsay and whether a hearsay exception properly is identified are legal questions demanding plenary review. They require determinations about which reasonable minds may not differ; there is no 'judgment call' by the trial court, and the trial court has no discretion to admit hearsay in the absence of a provision providing for its admissibility."[2] This is where I part company from the majority.

Although I agree with the majority's rather unremarkable proposition that we should examine the ruling at issue carefully to determine the appropriate standard of review,[3] unlike the majority, I view the appeal of "bright line rules" in this context as more than "superficial."[4] Indeed, until the majority's decision in this case, it had been "axiomatic [in Connecticut][5] that [t]he trial court's ruling on the admissibility of evidence is entitled to great deference. . . . In this regard, the trial court is vested with wide discretion in determining the admissibility of evidence, including issues of relevance and the scope of cross-examination. . . . Accordingly, [t]he trial court's ruling on evidentiary matters will be overturned only upon a showing of a clear abuse of the court's discretion. . . . In determining whether there has been an abuse of discretion, every reasonable presumption should be made in favor of the correctness of the trial court's ruling, and we will upset that ruling

only for a manifest abuse of discretion. . . . This deferential standard is [generally] applicable to evidentiary questions involving hearsay."[6] (Internal quotation marks omitted.) *State* v. *Calabrese*, 279 Conn. 393, 406–407, 902 A.2d 1044 (2006) (whether statements on answering machine tape were hearsay when offered to prove nontestifying complainant's animus against defendant).[7]

I believe that the abuse of discretion standard reflects the context specific nature of evidentiary rulings, which are made in the heat of battle by the trial judge, who is in a "unique position" to "[observe] the context in which particular evidentiary issues arise and who is therefore in the best position to weigh the potential benefits and harms accompanying the admission of particular evidence. As a result, rules have been constructed to allow the trial judge some degree of choice in application of those rules."[8] D. Leonard, "Power and Responsibility in Evidence Law," 63 S. Cal. L. Rev. 937, 956–57 (1990); see also id., 1004 ("while trial courts do not have a 'right to be wrong,' their superior position in observing the progress of the trial creates a zone of practical, if not legal, immunity from reversal with respect to each close evidentiary ruling"). We have emphasized, however, that we will not abdicate our appellate responsibilities and that abuse of discretion review is not a rubber stamp.[9] See, e.g., *State* v. *Cortes*, 276 Conn. 241, 254, 885 A.2d 153 (2005) ("Despite this deferential standard, the trial court's discretion is not absolute. Provided the defendant demonstrates that substantial prejudice or injustice resulted, evidentiary rulings will be overturned on appeal where the record reveals that the trial court could not reasonably conclude as it did."); *State* v. *Cancel*, 275 Conn. 1, 18, 878 A.2d 1103 (2005) ("[W]hen we review claims for an abuse of discretion, the question is not whether any one of us, had we been sitting as the trial judge, would have exercised our discretion differently. . . . Rather, our inquiry is limited to whether the trial court's ruling was arbitrary or unreasonable." [Citation omitted; internal quotation marks omitted.]).

I disagree emphatically with the majority's conclusion that whether a statement is hearsay "require[s] determinations about which reasonable minds may not differ; there is no 'judgment call' by the trial court, and the trial court has no discretion to admit hearsay in the absence of a provision providing for its admissibility." In my view, the statement presented by this case demonstrates precisely why we should continue to give deference to the trial court's determination of whether a statement is hearsay, so long as the trial judge has properly considered the definition of hearsay contained in § 8-1 (3) of the Connecticut Code of Evidence.[10] See *State* v. *Sierra*, 213 Conn. 422, 435, 568 A.2d 448 (1990) ("[d]iscretion means a legal discretion, to be exercised in conformity with the spirit of the law and in a manner

to subserve and not to impede or defeat the ends of substantial justice" [internal quotation marks omitted]); see also Conn. Code Evid. § 8-2 ("[h]earsay is inadmissible, except as provided in the Code, the General Statutes or the Practice Book"). As the majority notes correctly, the statement at issue in this case is ambiguous and not easily characterized. In ruling on the state's objections and the defendant's arguments in support of the statement's admissibility, the trial court was, at the very least, implicitly required to determine what the ambiguous statement—" 'I got Richie. I got him good.' "—meant and for what reason the defendant offered it into evidence.[11] See footnote 11 of the majority opinion. This is the very kind of case and fact sensitive determination for which a trial court is particularly well suited.[12] See *State* v. *Reyes*, 81 Conn. App. 612, 620, 841 A.2d 237 (2004) ("[t]he court's evidentiary rulings are given great deference precisely because the court was in the best position to hear and to assess the witnesses' testimony in the context of the entire trial").

In the present case, there is no claim that the trial court improperly construed the meaning of the state of mind exception, or violated the defendant's constitutional rights. Accordingly, I emphasize my adherence to the abuse of discretion standard for reviewing simple evidentiary issues like that presented by this case, and I join only part II of the majority opinion, which concludes that the trial court did not abuse its discretion by sustaining the state's objection to the statement.

[1] Like the majority, I note that the defendant, relying on the Appellate Court opinion in this case, claims that " '[w]hether evidence offered at trial is admissible pursuant to one of the exceptions to the hearsay rule presents a question of law' " subject to plenary review. See *State* v. *Saucier*, 90 Conn. App. 132, 144, 876 A.2d 572 (2005); *State* v. *Gonzalez*, 75 Conn. App. 364, 375, 815 A.2d 1261 (2003), rev'd on other grounds, 272 Conn. 515, 864 A.2d 847 (2005). I agree with the state's position that the Appellate Court should not have engaged in plenary review of the trial court's evidentiary ruling, and that the flaw in the Appellate Court's analysis stems from its reliance on its decision in *Gonzalez*, a decision that incorrectly cited this court's decision in *State* v. *Tillman*, 220 Conn. 487, 600 A.2d 738 (1991), cert. denied, 505 U.S. 1207, 112 S. Ct. 3000, 120 L. Ed. 2d 876 (1992).

I begin with this court's decision in *State* v. *Tillman*, supra, 220 Conn. 487, which apparently formed the basis for the Appellate Court's conclusion that the trial court's hearsay ruling is a question of law subject to plenary review. See *State* v. *Saucier*, supra, 90 Conn. App. 144; *State* v. *Gonzalez*, supra, 75 Conn. App. 375. In my view, the Appellate Court's reliance in *Gonzalez* on *Tillman* was misplaced, as *Tillman* did not state that evidentiary issues, including the trial court's application of a hearsay exception, are themselves subject to plenary review. Rather, *Tillman* noted that the defendant in that case had raised claims that: "(1) the selection of jury panels was unconstitutionally discriminatory; (2) the trial court improperly instructed the jury on identification, consciousness of guilt, and the use of prior inconsistent statements; and (3) the trial court improperly ruled that the field notes of a police social worker were inadmissible as hearsay." *State* v. *Tillman*, supra, 491. With respect to the standard of review, *Tillman* referred to all of these issues and stated only that "[*t*]*o the extent that these claims are entitled to a plenary review*, we conclude that they do not establish the defendant's right to a new trial." (Emphasis added.) Id. Put differently, this court's decision in *Tillman* did not conclude specifically that evidentiary claims, and specifically hearsay rulings, are subject to plenary review. Thus, in my view, the Appellate Court's reliance in *Gonzalez* on *Tillman* for this proposition simply was mistaken, rendering that case and its progeny no longer good law on this point.

[2] The majority further states that "only after a trial court has made the legal determination that a particular statement is or is not hearsay, or is subject to a hearsay exception, is it vested with the discretion to admit or to bar the evidence based upon relevancy, prejudice, or other legally appropriate grounds related to the rule of evidence under which admission is being sought." I agree that the trial court first should determine whether the proffered statement is hearsay before considering the applicability of any hearsay exceptions. Unlike the majority, however, I would evaluate *both* determinations under the abuse of discretion standard of review.

[3] I agree with the majority that we should not apply the abuse of discretion standard of review to *all* claims with an evidentiary genesis. More specifically, I agree that claims that present questions of law, such as constitutional issues or matters of interpreting the meaning or extent of the rules of evidence, are subject to plenary review. See *State* v. *George J.*, 280 Conn. 551, 592, 910 A.2d 931 (2006) ("The court's ruling as to the nonhearsay character of the evidence is reviewed under a deferential abuse of discretion standard. . . . The court's ruling that the admission of the report entry did not violate the constitutional mandates of *Crawford* [v. *Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)], raises a question of law over which we exercise plenary review." [Citation omitted.]); *New England Savings Bank* v. *Bedford Realty Corp.*, 246 Conn. 594, 599 n.7, 717 A.2d 713 (1998) ("whether establishing such a chain of custody is a predicate for admitting documents as business records under [General Statutes] § 52-180" is question of law, and "[b]ecause we review the trial court's interpretation of the statute, and the statute's applicability to the proffered documents, our review is plenary"); see also *State* v. *Aaron L.*, 272 Conn. 798, 811, 865 A.2d 1135 (2005) ("[u]nless an evidentiary ruling involves a clear misconception of the law, [t]he trial court has broad discretion in ruling on the admissibility . . . of evidence" [internal quotation marks omitted]).

[4] The majority purportedly eschews the adoption of bright line rules in this context, including the "hybrid" approach whereby the determination of whether a statement is hearsay is a question of law subject to plenary review, but whether the trial court properly applied the relevant hearsay exception is a discretionary ruling. See footnote 12 of this opinion. I disagree, however, with the majority's characterization of its approach as not categorical, and as dependent on "the nature of the ruling at issue in the context of the issues in the case." The majority clearly states that whether a statement may properly be classified as hearsay is a question of law subject to plenary review because it is a "[determination] about which reasonable minds may not differ," and that "only after a trial court has made the legal determination that a particular statement is or is not hearsay, or is subject to a hearsay exception, is it vested with the discretion to admit or to bar the evidence based upon relevancy, prejudice, or other legally appropriate grounds related to the rule of evidence under which admission is being sought." In my view, the majority has, without saying so, adopted a bright line rule—albeit one I do not agree with—namely, the hybrid approach.

[5] As the majority's comprehensive research demonstrates, review of trial courts' evidentiary rulings for abuse of discretion similarly is well established in forty of our sister states and ten of the thirteen federal Circuit Courts of Appeals. See *United States* v. *Brown*, 441 F.3d 1330, 1359 (11th Cir. 2006), cert. denied, U.S. , 127 S. Ct. 1149, 166 L. Ed. 2d 998 (2007); *United States* v. *Washington*, 434 F.3d 7, 14 (1st Cir. 2006); *United States* v. *Brun*, 416 F.3d 703, 706 (8th Cir. 2005); *United States* v. *Dazey*, 403 F.3d 1147, 1165–66 (10th Cir. 2005); *United States* v. *Slaughter*, 386 F.3d 401, 403 (2d Cir. 2004); *United States* v. *Breland*, 356 F.3d 787, 792 (7th Cir.), cert. denied, 542 U.S. 944, 124 S. Ct. 2924, 159 L. Ed. 2d 825 (2004); *United States* v. *Alexander*, 331 F.3d 116, 121–22 (D.C. Cir. 2003); *United States* v. *Solis*, 299 F.3d 420, 443 (5th Cir.), cert. denied sub nom. *Mendez* v. *United States*, 537 U.S. 1060, 123 S. Ct. 640, 154 L. Ed. 2d 543 (2002); *United States* v. *Jackson*, 124 F.3d 607, 618 (4th Cir. 1997), cert. denied, 522 U.S. 1066, 118 S. Ct. 733, 139 L. Ed. 2d 670 (1998); *Kolmes* v. *World Fibers Corp.*, 107 F.3d 1534, 1542 (Fed. Cir. 1997); *Queen* v. *Belcher*, 888 So. 2d 472, 477 (Ala. 2003); *Wyatt* v. *State*, 981 P.2d 109, 112 (Alaska 1999); *State* v. *Montano*, 204 Ariz. 413, 426, 65 P.3d 61 (2003); *Dednam* v. *State*, 360 Ark. 240, 243, 200 S.W.3d 875 (2005); *People* v. *Guerra*, 37 Cal. 4th 1067, 1113, 129 P.3d 321, 40 Cal. Rptr. 3d 118 (2006), cert. denied, U.S. , 127 S. Ct. 1149, 166 L. Ed. 2d 998 (2007); *In re Water Rights of Central Colorado Water Conservancy District* v. *Greeley*, 147 P.3d 9, 17 n.7 (Colo. 2006); *Walton* v. *State*, 821 A.2d 871, 878 (Del. 2003); *International Biochemical Industries, Inc.* v. *Jamestown Management Corp.*, 262 Ga. App. 770, 776, 586 S.E.2d 442 (2003); *State* v.

Sandoval-Tena, 138 Idaho 908, 911, 71 P.3d 1055 (2003); *Stahl* v. *State*, 686 N.E.2d 89, 91 (Ind. 1997); *State* v. *Lackey*, 280 Kan. 190, 205, 120 P.3d 332 (2005), cert. denied, U.S. , 126 S. Ct. 1653, 164 L. Ed. 2d 399 (2006); *Martin* v. *Commonwealth*, 170 S.W.3d 374, 382 (Ky. 2005); *Menard* v. *Holland*, 919 So. 2d 810, 815 (La. App. 2005); *Commonwealth* v. *Lampron*, 441 Mass. 265, 271, 806 N.E.2d 72 (2004); *People* v. *Geno*, 261 Mich. App. 624, 631–32, 683 N.W.2d 687, appeal denied, 471 Mich. 921, 688 N.W.2d 829 (2004); *State* v. *Martin*, 695 N.W.2d 578, 583 (Minn. 2005); *Hobgood* v. *State*, 926 So. 2d 847, 853 (Miss. 2006), cert. denied, U.S. , 127 S. Ct. 928, 166 L. Ed. 2d 714 (2007); *State* v. *Justus*, 205 S.W.3d 872, 878 (Mo. 2006); *State* v. *Cameron*, 326 Mont. 51, 54, 106 P.3d 1189 (2005); *Crowley* v. *State*, 120 Nev. 30, 34, 83 P.3d 282 (2004); *State* v. *Beltran*, 153 N.H. 643, 650, 904 A.2d 709 (2006); *State* v. *Torres*, 183 N.J. 554, 567, 874 A.2d 1084 (2005); *State* v. *Dedman*, 136 N.M. 561, 567, 102 P.3d 628 (2004); *People* v. *Carroll*, 95 N.Y.2d 375, 385, 740 N.E.2d 1084, 718 N.Y.S.2d 10 (2000); *State* v. *Brigman*, 178 N.C. App. 78, 87, 632 S.E.2d 498, review denied, 360 N.C. 650, 636 S.E.2d 813 (2006); *State* v. *Krull*, 693 N.W.2d 631, 635 (N.D. 2005); *Beard* v. *Meridia Huron Hospital*, 106 Ohio St. 3d 237, 239–40, 834 N.E.2d 323 (2005); *In re J.D.H.*, 130 P.3d 245, 247 (Okla. 2006); *Commonwealth* v. *Mitchell*, 588 Pa. 19, 56, 902 A.2d 430 (2006), cert. denied, U.S. , 127 S. Ct. 1126, 166 L. Ed. 2d 897 (2007); *Perry* v. *Alessi*, 890 A.2d 463, 470 (R.I. 2006); *Floyd* v. *Floyd*, 365 S.C. 56, 81–82, 615 S.E.2d 465 (App. 2005); *State* v. *Herrmann*, 679 N.W.2d 503, 507 (S.D. 2004); *State* v. *Saylor*, 117 S.W.3d 239, 247–48 (Tenn. 2003), cert. denied, 540 U.S. 1208, 124 S. Ct. 1483, 158 L. Ed. 2d 133 (2004); *Zuliani* v. *State*, 97 S.W.3d 589, 595 (Tex. Crim. App. 2003); *State* v. *Voorheis*, 176 Vt. 265, 272, 844 A.2d 794 (2004); *Twine* v. *Commonwealth*, 48 Va. App. 224, 230, 629 S.E.2d 714 (2006); *State* v. *DeVincentis*, 150 Wash. 2d 11, 17, 74 P.3d 119 (2003); *State* v. *Larry M.*, 215 W. Va. 358, 363, 599 S.E.2d 581 (2004); *State* v. *Manuel*, 281 Wis. 2d 554, 568–69, 697 N.W.2d 811 (2005); *Boykin* v. *State*, 105 P.3d 481, 482–83 (Wyo. 2005).

[6] I also believe that the existence of clearly delineated standards of review provides necessary guidance to practitioners who, in reviewing a trial record, must determine which claims are likely to succeed on appeal and, therefore, are worthy of valuable real estate in a thirty-five page brief. See, e.g., M. Bosse, "Standards of Review: The Meaning of Words," 49 Me. L. Rev. 367, 370 (1997) ("[t]o understand and to know what standards of review apply is important to the practitioner . . . for two reasons: first, to know whether an appeal is likely to be successful, and second, to argue that appeal").

[7] See also, e.g., *State* v. *Skakel*, 276 Conn. 633, 728–29, 888 A.2d 985 (application of residual exception to hearsay rule), cert. denied, U.S. , 127 S. Ct. 578, 166 L. Ed. 2d 428 (2006); *Margolin* v. *Kleban & Samor, P.C.*, 275 Conn. 765, 779, 882 A.2d 653 (2005) (admissibility under business records exception).

[8] I recognize that the term "abuse of discretion" has been criticized as formless and standardless with respect to its utility for guiding trial court decision making or meaningful appellate review of those decisions. See *State* v. *James*, 261 Conn. 395, 408–409, 802 A.2d 820 (2002), citing M. Rosenberg, "Judicial Discretion of the Trial Court, Viewed from Above," 22 Syracuse L. Rev. 635, 667 (1971). Judge Richard Markus, a former member of the Ohio Court of Appeals, provides helpful guidance for the review process, as he writes that, "[b]efore according deference to a trial court's discretion, the appellate court should confirm:

"(1) the governing legal principle authorizes discretion for that type of decision, instead of a consistently applied rule of law;

"(2) the underlying facts on which the trial court relied authorized it to make a choice;

"(3) the court's choice fell within an acceptable range;

"(4) the court did not consider improper factors in determining its ability to choose or in making its choice;

"(5) the court did not refuse to consider proper factors in determining its ability to choose or in making that choice; and

"(6) the court did not weigh those factors irrationally in determining its ability to choose or to make that choice." R. Markus, "A Better Standard for Reviewing Discretion," 2004 Utah L. Rev. 1279, 1293–94. Judge Markus writes that "[i]f the ruling does not satisfy the first segment of this six-part test, the court had no discretion to exercise. If it fails to satisfy any of the remaining segments, the court abuses its discretion." Id., 1294. Once an abuse of discretion is determined to exist, then the reviewing court may proceed to any applicable harmless error analysis. See id., 1296–97.

[9] Appellate review of evidentiary rulings under the abuse of discretion

standard has not been the toothless tiger of "unwarranted deference" that appears to concern the majority. My research indicates that, in the last year alone, this court has on four occasions concluded that a trial court abused its discretion with respect to a purely evidentiary ruling, and reversed judgments based on those conclusions. See generally *Prentice* v. *Dalco Electric, Inc.*, 280 Conn. 336, 347, 907 A.2d 1204 (2006) (trial court's admission of scientific expert opinion testimony without *Porter* hearing to assess validity of underlying methodology); *State* v. *Ritrovato*, 280 Conn. 36, 53, 905 A.2d 1079 (2006) (improper exclusion of evidence of victim's sexual history pursuant to rape shield statute when prosecution had made victim's virginity part of case); *State* v. *Calabrese*, supra, 279 Conn. 410 (exclusion of evidence to impeach hearsay declarant); *State* v. *Sawyer*, 279 Conn. 331, 335, 904 A.2d 101 (2006) (admission of uncharged misconduct). In one other case, we concluded that the trial court had abused its discretion, but also that the impropriety was harmless error not requiring reversal. See *State* v. *George J.*, 280 Conn. 551, 591, 910 A.2d 931 (2006) (hearsay statements contained in investigative records of department of children and families); see also *State* v. *Skakel*, 276 Conn. 633, 736–37, 888 A.2d 985, cert. denied, U.S. , 127 S. Ct. 578, 166 L. Ed. 2d 428 (2006) (declining to consider whether admitted newspaper articles were unduly prejudicial because admission would in any event be harmless error).

I also find it interesting that the term "abuse of discretion" has been criticized academically by judicial authors as having "an unnecessarily pejorative flavor, which implies a condescending superiority over trial court judges who make conscientious efforts to provide reliable service." R. Markus, "A Better Standard for Reviewing Discretion," 2004 Utah L. Rev. 1279, 1303 (authored by former judge of Ohio Court of Appeals); see also A. Mead, "Abuse of Discretion: Maine's Application of a Malleable Appellate Standard," 57 Me. L. Rev. 519, 521 (2005) (former Chief Justice of Maine Superior Court noting that term "suggests that the trial judge has done something that is terribly out of line"). Justice Mead noted that, in response to these concerns, the New Hampshire Supreme Court has "abandoned the language altogether in favor of the term 'sustainable exercise of discretion.' " Id., 521 and n.9, quoting *State* v. *Lambert*, 147 N.H. 295, 296, 787 A.2d 175 (2001) (sentencing case).

[10] In my view, a trial court that either admits into evidence a statement that is hearsay not subject to an exception, or fails to consider the definition of hearsay, has abused its discretion by disregarding in some way the rules of evidence that are in place to guide that discretion. Cf. *State* v. *Sierra*, 213 Conn. 422, 436, 568 A.2d 448 (1990) ("[T]he balancing process is critical to the determination of whether other crime evidence is admissible. Therefore, notwithstanding our deferential standard of review, the failure of the trial court to balance the probative value of the proffered evidence against its prejudicial tendency constitutes an abuse of discretion.").

[11] I agree with the majority that the trial court did not rule specifically on the defendant's argument that the statement was not hearsay, and also that the defendant failed to raise this claim before the Appellate Court in the first instance, thereby rendering the record inadequate for review of this particular claim in this certified appeal. See part II A of the majority opinion. In any event, I view the trial court's analysis, which proceeded directly to the applicability of the state of mind exception, as concluding implicitly that the statement was in fact hearsay.

[12] Accordingly, I reject the reasoning of the four state jurisdictions, specifically the District of Columbia, Iowa, Maryland and Oregon, that specifically review hearsay issues, including the application of hearsay exceptions, as questions of law subject to de novo review. See cases cited in footnote 9 of the majority opinion. I also disagree with the four state jurisdictions, specifically Florida, Illinois, Maine and Utah, and the three federal Circuit Courts of Appeals, specifically the Third, Sixth and Ninth, that apply a hybrid standard whereby the determination of whether a statement is hearsay is subject to plenary review, but the application of exceptions to the hearsay rule is reviewed for abuse of discretion. See *United States* v. *Price*, 458 F.3d 202, 205 (3d Cir. 2006) ("Whether a statement is hearsay is a legal question subject to plenary review. . . . If the district court correctly classifies a statement as hearsay, its application of the relevant hearsay exceptions is subject to review for abuse of discretion." [Citation omitted.]), cert. denied, U.S. , 127 S. Ct. 1014, 166 L. Ed. 2d 764 (2007); *United States* v. *Washington*, 462 F.3d 1124, 1135 (9th Cir. 2006) ("Whether a district court correctly construed the hearsay rule is a question of law we review de novo. . . . We review a district court's decision to admit evidence as non-hearsay for an abuse of discretion." [Citation omitted.]); *United States* v. *Gibson*, 409 F.3d 325, 337 (6th Cir. 2005) (stating that "[w]e review evidentiary rulings

by the district court, including alleged violations of the hearsay rule, under the abuse-of-discretion standard," and also that "[w]e review de novo a district court's conclusions of law, such as . . . whether evidence offered at trial constituted hearsay within the meaning of the Federal Rules of Evidence"); *K.V.* v. *State*, 832 So. 2d 264, 265–66 (Fla. App. 2002) ("The abuse of discretion standard applies in cases where the proponent of the evidence is seeking to have it come in under a hearsay exception. . . . However, the question of whether evidence falls within the statutory definition of hearsay is a question of law." [Citation omitted.]); *People* v. *Caffey*, 205 Ill. 2d 52, 90, 792 N.E.2d 1163 (2001) (using abuse of discretion standard to review claims about applicability of various hearsay exceptions, including state of mind and declaration against penal interest, when trial court's rulings were based on "the specific circumstances of this case and not on a broadly applicable rule"), cert. denied, 536 U.S. 944, 122 S. Ct. 2629, 153 L. Ed. 3d 810 (2002); *In re A.B.*, 308 Ill. App. 3d 227, 234, 719 N.E.2d 348 (1999) ("[A] trial court's determination that a particular statement is or is not hearsay [either under the common law or pursuant to statute] is a question of law because it does not involve the exercise of discretion, fact finding, or credibility assessments. . . . Only after a trial court has made the legal determination that a particular statement is or is not hearsay is it vested with the discretion to admit or bar the evidence . . . based upon relevancy, prejudice, or other legally appropriate grounds." [Citations omitted.]); *State* v. *Cornhuskers Motor Lines*, 854 A.2d 189, 192 (Me. 2004) (applying abuse of discretion standard to review application of party opponent exception to allegedly falsified truck logs); *State* v. *White*, 804 A.2d 1146, 1150 (Me. 2002) (determining whether identification statement made to state trooper was for truth of matter asserted and stating that "[a] trial court's decision to admit alleged hearsay is a question of law, which we review de novo" [internal quotation marks omitted]); *Wayment* v. *Clear Channel Broadcasting, Inc.*, 116 P.3d 271, 286 (Utah 2005) ("Whether proffered evidence meets the definition of hearsay in Utah Rule of Evidence 801 is a question of law, reviewed for correctness. . . . Nevertheless, because application of the hearsay rules in a specific case is so highly fact-dependent, a district court's conclusions on such issues are entitled to some measure of deference." [Citations omitted.]).