YOUNG LEE, AS VICTIM'S REPRESENTATIVE, Cross-Petitioner, v. ADNAN SYED AND STATE OF MARYLAND, Cross-Respondents.	IN THE SUPREME COURT OF MARYLAND September Term, 2023 No. 81

Cross-Petition for *Writ of Certiorari*

Pursuant to Md. Rules 8-302(c) and 8-303, Young Lee cross-petitions this Court to issue a *writ of certiorari*. While the Appellate Court's decision in *Lee v. State, et al.*, No. 1291, September Term, 2022 (filed March 28, 2023), remedies serious procedural deficiencies in the vacatur process in this case, it falls short in one critical respect: it leaves no one to speak on the Lee family's behalf. This Court should intercede to ensure that the victim's representative is given a meaningful voice, as the law requires. It should decisively reject an interpretation that deprives the family of a right to be heard and makes them a hapless bystander to the proceedings.[1]

[1] Although Mr. Lee disagrees with Mr. Syed on which questions this appeal presents, he agrees that this case involves important legal issues warranting review. If *certiorari* is granted, Mr. Lee will counter Mr. Syed's arguments on the merits. In short, the Vacatur Statute and Maryland's victims' rights laws guarantee that victims receive notice and opportunity to participate. Conducting harmless error review would eviscerate the procedural protections for crime victims.

INTRODUCTION

Our system of justice relies on the adversarial process. Deciding a case based on untested, one-sided claims would mirror the abuses of authoritarian regimes. Here, Mr. Lee, brother of murder victim Hae Min Lee, learned of Adnan Syed's vacatur proceeding for his 20-year-old conviction at the last possible minute and received no opportunity to attend or meaningfully participate. Unique to this vacatur, the prosecutor's and defendant's interests were aligned, and the Circuit Court provided no effective oversight. No one was permitted to challenge the purported evidence offered in support of vacatur—so, the vacatur decision was based on speculation, conjecture, and innuendo alone.

This case presents an issue of critical public importance. Specifically, Cross-Petitioner contends that Maryland Code, Criminal Procedure ("CP") § 8-301.1 (the "Vacatur Statute") requires that victims not only be provided notification of and opportunity to attend a vacatur hearing but also the right to speak. The import is even greater here, in a case that overturned 20-plus years of settled appellate rulings, including by this very Court.

The Appellate Court reviewed the prosecutor's and circuit court's conduct in the underlying vacatur proceeding and found it gravely deficient. *Lee v. State*, 257 Md. App. 481 (2023), *reconsideration denied* (May 2, 2023).[2] The Appellate Court

[2] The Appellate Court opinion is attached.

raised doubts about the prosecutor's motivations and its conclusory assertions that the basis for Mr. Syed's conviction had been eroded. Accordingly, the Court vacated the vacatur ruling and remanded for a redo—with proper procedures and protections in place. But it erred in one regard: it stopped short of granting Mr. Lee the right to speak and challenge the evidence. This Court can correct that error by recognizing these rights under the Vacatur Statute, victims' rights laws, and State constitution. Anything less would render the remanded hearing an empty ritual.

Cross-Petitioner seeks merely enforcement of his right to a fair, unbiased process as provided by Maryland law. This appeal is about the circuit court's procedures and decidedly not about how to decide the vacatur on the merits.

QUESTION PRESENTED

> Whether a victim's right to speak, as enshrined in Maryland's laws and constitution, is incorporated into the Vacatur Statute, CP § 8-301.1, where no party or entity other than the victim has an interest in challenging the evidence alleged to support vacatur?

FACTUAL AND PROCEDURAL BACKGROUND

On February 25, 2000, Mr. Syed was convicted of murdering his ex-girlfriend, Ms. Lee. *Syed v. State*, 236 Md. App. 183 (2018). The trial court sentenced him to life in prison with the possibility of parole. *Id*. Mr. Syed filed multiple unsuccessful appeals. In 2019, this Court again affirmed his conviction. *State v. Syed*, 463 Md. 60 (2019).

On September 14, 2022, the State moved to vacate the conviction—asserting newly discovered evidence, a purported *Brady* violation, and potentially "two alternative suspects." But these contentions were unsupported. The Appellate Court highlighted several of the deficiencies in the State's motion:

> [T]he State's motion did not identify the two alternate suspects or explain why the State believed those suspects committed the murder without Mr. Syed. The note indicating that one of the suspects had motive to kill Hae is not part of the record on appeal, and in the State's October 25, 2022 response, the Office of the Attorney General stated that there is other information in the note that was relevant but not cited in the motion to vacate.

Lee, 257 Md. App. at 495 n.8.

On Friday, September 16, the court conducted a secret *in-camera* prehearing that only the judge, prosecutor, and Mr. Syed attended. *Id.* at 496–97. That afternoon, the State attorney notified Mr. Lee that an in-person vacatur hearing had been scheduled—for the next business day, Monday, September 19. Mr. Lee wanted to be there but could not travel cross-country on such short notice. *Id.* at 497–99.

On the morning of September 19, Mr. Lee filed a motion to postpone the hearing by one week. The court denied the motion, ruling that if Mr. Lee wished to speak, he must do so immediately via Zoom. Mr. Lee, without time to confer with counsel, made a short, flustered statement. *Id.* at 500–04. Without any

explanatory findings of fact or conclusions of law, the court granted the State's motion and ordered Mr. Syed's immediate release. *Id.* at 509–10.

The Appellate Court criticized this conduct:

> [A]lthough CP § 8-301.1(f)(2) requires the court to "state the reasons for" its ruling, the court did not explain its reasons for finding a Brady violation. . . . Additionally, the court found that the State discovered new evidence that created a substantial likelihood of a different result, but it did not identify what evidence was newly discovered or why it created the possibility of a different result.

Id. at 509 n.15.

On September 28, 2022, Mr. Lee filed a notice of appeal and sought a stay pending the appeal. On October 5, Mr. Lee also moved in the Appellate Court to stay proceedings. With these motions pending, on October 11, 2022, the State entered a *noelle prosequi* of the vacated charges. After Mr. Lee showed cause for why his appeal should not be dismissed as moot, the Appellate Court allowed the appeal to proceed and issued its opinion on March 28, 2023.

First, the Appellate Court held that the State's *noelle pros* was a nullity and that Mr. Lee's appeal was not moot. *Id.* at 519–27. The Court emphasized that the *noelle pros* "was entered with the purpose or 'necessary effect' of preventing Mr. Lee from obtaining a ruling" on his appeal. *Id*. at 526.

Second, the Court held that Mr. Lee's right to notice had been violated. *Id.* at 527–38. As it stated, "we must construe CP § 8-301.1(d) and Rule 4-333 in light of the constitutional and statutory mandate that crime victims 'be treated by

agents of the State with dignity, respect, and sensitivity' . . . as well as the legislative intent that a victim has the right to notice and to attend the vacatur hearing." So, an email one business day before the hearing was unreasonable. *Id.* at 537.

Third, the Court held that requiring Mr. Lee to appear remotely during "what indisputably was (or should have been) an evidentiary hearing" violated his right to attend. *Id.* at 541. Specifically, attendance via Zoom is unacceptable when a victim's representative expresses a desire to attend in person and all other participants may do so. *Id.* at 540–41. The Court underscored the value of in-person attendance. *Id.* at 539–40. Against that backdrop, the circuit court denied Mr. Lee's request to postpone "despite there being no showing that it was necessary to hold the vacatur hearing that day." *Id.* at 541.

Finally, despite all these improprieties, the Court found that the Vacatur Statute does not provide a victim a right to be heard at a vacatur hearing. Still, the Court pointed out, "there are valid reasons to allow a victim that right in a vacatur hearing, and the court has discretion to permit a victim to address the court." *Id.* at 547.

The Appellate Court vacated the order vacating Mr. Syed's conviction and remanded for "a new, legally compliant, transparent hearing . . . where Mr. Lee is given notice of the hearing that is sufficient to allow him to attend in person,

evidence supporting the motion to vacate is presented, and the court states its reasons in support of its decision." *Id.* at 550. Mr. Lee contends, however, that leaving his ability to speak to the trial court's discretion is insufficient to enforce Maryland's victims' rights mandates.

REASONS FOR GRANTING THE WRIT

I. This Court Should Grant the Writ to Clarify that Victims May Participate in a Vacatur Hearing by Speaking on the Record

a. The Vacatur Statute and Maryland's Statutory and Constitutional Protections Afford Victims Formidable Rights

The Maryland Declaration of Rights requires state agents to treat crime victims with "dignity, respect and sensitivity during all phases of the criminal justice process." Art. 47(a). This broad grant engendered a suite of guarantees for victims. Under CP § 11-102(a), a victim's representative may "attend any proceeding in which the right to appear has been granted to a defendant." And CP § 11-403(a) requires a court to allow a victim's representative to "**address the court under oath**" where an "alteration of a sentence" is considered. *Id.* (emphasis added). If the representative does not appear, the prosecutor must state why it is appropriate to proceed. CP § 11-403(e)(1). If the court is dissatisfied with this explanation, it may postpone the hearing. CP § 11-403(e)(2).

In 2013, the Assembly gave these rights teeth by amending CP § 11-103 to provide for direct appeal and expand appellate courts' power to impose remedies. *See Antoine v. State*, 245 Md. App. 521, 541–42 (2020). Under *Antoine*, violation of

victims' rights protections gives rise to an appropriately tailored remedy without a requirement to show that the outcome would have been different; hence, a harmless error analysis, as Mr. Syed urges, is inapposite.

The Vacatur Statute, effective January 2020, created a new mechanism to vacate criminal convictions. CP § 8-301.1; Md. Rule 4-333. Unlike previously available tools, the Vacatur Statute permits—indeed, requires—the prosecutor to initiate the proceeding. *See* Md. House Bill 874, Bill File at 1–5 (2019), attached as **Attachment A**.

Because of the prosecutor's and defendant's alignment, the Vacatur Statute requires that victims "be notified" and allowed "to attend." CP § 8-301.1(d). Moreover, the Statute incorporates a victim's right to speak provided under CP § 11-403(b) through its implementing rule. *See* Md. Rule 4-333(h) ("**Cross-reference:** For the right of a victim or victim's representative to address the court during a sentencing or disposition hearing, see Code, Criminal Procedure Article, § 11-403."). These rights are essential to ensure a thorough hearing and to afford the victim dignity and respect.

b. The State and Circuit Court Violated Cross-Petitioner's Rights, Resulting in a Predetermined Hearing with No Review of the Evidence

The circuit court and State violated Mr. Lee's rights. The State first advised Mr. Lee of its motion on Monday, September 12, 2022. *Lee*, 257 Md. App. at 497.

Mr. Lee made clear that he wanted to be notified if there was a hearing, but the prosecutor did not do so until late Friday, September 16—less than one business day in advance—and never informed Mr. Lee that he could attend. *Id.* at 497–98.

Mr. Lee rushed to retain counsel one day before the hearing. On the day of the hearing, counsel moved to postpone so that Mr. Lee could travel from California and attend in person. *Id.* at 498–502. The circuit court refused and said that Mr. Lee would have to join immediately by Zoom. With only 30 minutes to race home from work and prepare without counsel's input, Mr. Lee briefly spoke on his sister's murder. He could do little more than express confusion and regret. He could not address the vacatur's merits because the prosecutor had not yet presented them. *Id.* at 502–04. He could not speak to the evidence because neither he nor the public ever saw any—it had appeared just once, in the secret *in camera* prehearing. *Id.* at 496–97.

Once Mr. Lee finished, the session devolved into a *pro forma* reading of highlights from the prosecutor's affidavit, including: an alleged *Brady* violation; concerns with the underlying case that prior appeals had long since rejected; and theories that were thinly described and lacked evidentiary support. The prosecutor did not explain how any of it called the integrity of the conviction into

question. *Id.* at 505–09. In so evidently failing to present its allegations, the State demonstrated that it was set on a specific outcome even without necessary proof.[3]

The circuit court ruled, without analysis, that the State had met its burden for granting vacatur. It did not explain its reasons for finding a *Brady* violation, as required. *Id.* at 509–10 & n.15. The court further demonstrated that the outcome was foreordained by having Mr. Syed's street attire waiting for him to change into the moment the hearing ended and then releasing him to a pre-arranged press conference. *Id.* at 510, 542 n.33. The Appellate Court held that the hearing was so flawed, the only solution was to remand the case for an entirely new proceeding. *Id*. at 493 n.6, 495 n.8, 549–50.

The State and circuit court violated Mr. Lee's rights and thus eliminated the one person with an ability to participate and interest in meaningfully questioning the merits of the vacatur motion.

c. The Vacatur Statute Incorporates the Victim's Right to Speak

When vacatur is contested, the purpose of the Vacatur Statute will be met only if some party or entity is allowed to present a credible challenge.

[3] The State indicated that it had undertaken a new "nearly year-long investigation," but it was still ongoing. The State admitted such uncertainty about the outcome that whether to "proceed with a new trial or enter a nol pros" was contingent on the ongoing DNA tests' results. *Id.* at 493. These tests never cleared Syed or implicated alternative suspects.

The Vacatur Statute envisions the victim's right to participate to help the circuit court review the evidence. The right to speak is incorporated by Md. Rule 4-333(h), which cross-references CP § 11-403. A cross-reference **makes the cited statute part of the law**. *See Jam v. Int'l Fin. Corp.*, 139 S. Ct. 759, 769 (2019) ("[A] statute that refers to another statute by specific title or section number in effect cuts and pastes the referenced statute as it existed when the referring statute was enacted."); *Hassett v. Welch*, 303 U.S. 303, 314 (1938) ("Where one statute adopts the particular provisions of another by a specific and descriptive reference to the statute or provisions adopted, the effect is the same as though the statute or provisions adopted had been incorporated bodily into the adopting statute."); Singer & Singer, 2b Sutherland Statutory Construction § 51:7 (7th ed. 2019); *In re Heath,* 144 U.S. 92, 93–94 (1892) ("Prior acts may be incorporated in a subsequent one in terms or by relation.").

Even if the cross-reference did not have this effect, the right to speak should be inferred as inherent in the statutory scheme. The Appellate Court ruled that "the intent of the General Assembly" was to permit victims to attend vacatur hearings in person. *Lee*, 257 Md. App. at 539. But the right to receive notice and attend a proceeding is not an end onto itself: it "protects the right to be heard at that hearing." *Lamb v. Kontgias*, 169 Md. App. 466, 480 (2006). The rights exist "hand in glove." *Id.* Otherwise, the victim is a mere prop, forced to sit on his hands

and lament. The Vacatur Statute's explicit inclusion of a right to notice implies a corollary right to participate.

The Statute also sets key requirements that the prosecutor and court must meet for entry of vacatur. *See* CP § 8-301.1(b)(2), (f)(2), (g). The State's burden of proof is meaningless if no one may stand in opposition and hold the evidence up to light. In no other instance does our system rely on one-sided argument—it depends, instead, on the adversarial process. *See Penson v. Ohio*, 488 U.S. 75, 84 (1988) ("[O]ur adversarial system of justice . . . is premised on the well-tested principle that truth—as well as fairness—is 'best discovered by powerful statements on both sides of the question.'"); *U.S. v. Abuhamra*, 389 F.3d 309, 322–23 (2d Cir. 2004) ("[F]airness can rarely be obtained by secret, one-sided determination of facts decisive of rights." (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 170 (1951) (Frankfurter, J., concurring))). As this Court has stated, a ruling preventing one side from mounting a full challenge to the other party's evidence "deprive[s] the court of one of the core benefits of the adversarial system: the progression towards truth through the presentation of counter-evidence." *Sumpter v. Sumpter*, 436 Md. 74, 85 (2013).

The Appellate Court in *Antoine* examined what relief it may grant when a victim's rights are violated and held that he "should be placed in the position [he] occupied before the violations occurred." 245 Md. App. at 555. In *Antoine*, that

meant redoing a sentencing hearing so that the victim could participate; anything less would be "**an empty ritual**." *Id* (emphasis added). Here, for Mr. Lee's right to attend a new hearing with adequate notice to be more than an empty ritual, the circuit court must not just redo the hearing, it must do it properly. That means that Mr. Lee may meaningfully participate—with the right to review and speak on the evidence. The Vacatur Statute and victims' rights protections demand as much.

d. The Appellate Court Erred by Withholding Mr. Lee's Right to Speak

In its decision, the Appellate Court raised grave doubts about the facts supporting vacatur. The Court declared, "we may think it advisable to allow the victim the right to be heard at a vacatur hearing, particularly where there is no one advocating for the conviction to be upheld." 257 Md. App. at 544. Still, it stopped short of ruling that such a requirement existed. Here, the Court erred in three ways.

First, the Court misinterpreted the meaning of the Rules Committee incorporating CP § 11-403 by cross-reference. It ruled that the absence of explicit language in the Vacatur Statute itself meant that no right to speak existed. Better-suited canons of construction suggest the opposite. Statutes are to be interpreted to avoid surplusage; if the cross-reference to § 11-403 was a throwaway that meant nothing, it would not have been included. *See, e.g., Johnson v. State*, 467 Md. 362, 372 (2020). Further, a court must consider the statutory scheme as a whole,

including any related enactments, and effectuate the Legislature's overall purpose. *Id*. at 372–73. The Related-Statutes Canon states that statutes *in pari materia* are to be interpreted together. Scalia & Garner, *Reading Law: The Interpretation of Legal Texts* § 39 (2012). So, related statutes must be harmonized to the extent possible. *See Johnson*, 467 Md. at 372; *Bolling v. Bay Country Consumer Fin., Inc.*, 251 Md. App. 575, 602 (2021). Likewise, under the Presumption Against Implied Repeal Canon, repeals by implication are "very much disfavored." Scalia & Garner § 55. Only a provision that flatly contradicts an earlier-enacted one annuls it. The right to speak is provided for in hearings that affect a sentence, CP § 11-403(b), and Md. Rule 4-333(h) explicitly incorporates this right. The Vacatur Statute and right to speak are not just related; they are paired. Had the Assembly intended otherwise, it would have said so.

Second, the Court ruled that the cross-reference to CP § 11-403 "suggests . . . a comparison" with available rights, not an establishment of that right. 257 Md. App. at 546. But it beggars belief to suggest that the Assembly incorporated a reference to a clearly established right in criminal proceedings in order to show that such a right did **not** exist in vacatur hearings. Cross-Petitioner is aware of no other instance in which a statutory cross-reference has been so construed.[4]

[4] The Appellate Court cites to the *Report of the Standing Committee on Rules of Practice and Procedure* for this proposition, but the report merely restates the wording of

Finally, the Court rejected Mr. Syed's argument that CP § 11-403 applies only to sentencing hearings, ruling "that the vacatur of a defendant's conviction is the ultimate alteration of a sentence." *Id.* at 545. Instead, it drew another distinction between vacaturs and sentencings: sentencings are discretionary. *Id.* at 545–46. The Court said, the Vacatur Statute was like other non-discretionary post-conviction procedures that did not provide a right to speak. *Id*. But such logic is flawed. Victims' participation is essential under the Vacatur Statute because the victim is the one potential adversary who can question the evidence and purported basis for vacatur. This is not so under the other laws the Appellate Court listed.[5] *Id.* at 546. Nothing in CP § 11-403 indicates that it applies only to discretionary rulings.

* * *

Accordingly, the Appellate Court erred in denying Mr. Lee's right to speak and leaving it to the trial judge's discretion. This Court should correct the ruling.

II. Review of the Question Presented Is Desirable and in the Public Interest

Whether victims may speak under the Vacatur Statute is of crucial import. Appellate guidance is necessary and appropriate.

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the Rule. 257 Md. App. at 546.

[5] It is worth noting that of the statutes listed, only UPPA even mentions CP § 11-403 (*see* Md. Rule 4-406). The Court indicated that these laws do not provide a right to speak, but as far as Cross-Petitioner can determine, the issue has never been litigated or decided.

The Appellate Court's failure to recognize a right to speak, if left standing, will permanently damage future applications of the Statute and how courts treat victims as a general matter.[6] Contrary to the Assembly's intent, it will diminish victims' standing in court and render them muffled observers where their interests are at stake. Article 47's protections would be dramatically diluted.

Moreover, this is a matter of significant public interest. The case has been the subject of a popular podcast and HBO series, which garnered extensive support for Mr. Syed. The Baltimore City State's Attorney's Office maintained his guilt for decades, only to turn on a dime at the whim of the new State's Attorney. *See Commonwealth v. Brown*, 649 Pa. 293, 325 (2018) (a prosecutor "cannot now seek to implement a different result based upon the differing views of the current office holder"). This amounts to nullification by public impulse. If the State seeks such an outcome, there should be someone positioned to speak and question the basis for its claims. Otherwise, as here, it can steamroll through a pre-determined result even if unjustified.

CONCLUSION

Accordingly, this Court should issue a *Writ of Certiorari* to review and rule upon the issue of public import raised by the Appellate Court's ruling: whether a victim has a right to be heard at a vacatur proceeding.

[6] The Vacatur Statute is new and likely to arise often.

Respectfully Submitted,

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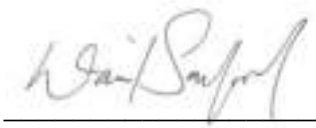
CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULES 8-112 AND 8-303

1. This petition contains 3,896 words.
2. This petition complies with the font, spacing, and type size requirements stated in Md. Rule 8-112. This brief was printed using a 13-point Book Antiqua font.



David W. Sanford

CERTIFICATE OF SERVICE

On the **8th Day of June 2023**, the within Cross-Petition for *Writ of Certiorari* has been filed and served electronically to registered users via the Court's MDEC system. Additionally, on this date, counsel for Cross-Petitioner will serve paper copies via U.S. mail upon:

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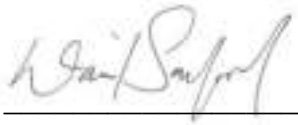

David W. Sanford

APPENDIX

12:[illegible] Wednesday, November 30, 2022

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CASE 199103042 DCM TRACK C DATE 090399 FELONY [illegible]
CASE 199103042 STATUS C DATE 101122 PROV.61 R 101122 COURT 3O CHANGE 111722
DEF [illegible], AHMAD ID 528334 SID 002005677 [illegible] M [illegible] M DOB 052180
ADDRESS 7034 JOHNNYCAKE RD BALTIMORE MD 21207
DOA 000000 COMPL 985901 PHYS LOC CASE LOC DOC 101922
DOP 041999 TRACK NO 99-1001-14489-5 DIST CASE 9800351587 TOT CO CNTS.R [illegible] 1
001 000 C [illegible] CODE 2 0000 MURDER FIRST DEGREE DISP NP 101122
ARREST/CITATION NO 0
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SENTENCE TYPE DATE TIME REQ SUSP
PROBATION TIME TYPE COST FINE
002 000 C [illegible] CODE 1 0999 MURDER-2ND DEGREE DISP NP 101122
ARREST/CITATION NO 0
PLEA DATE VERDICT DATE
SENTENCE TYPE DATE TIME REQ SUSP
PROBATION TIME TYPE COST FINE
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
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CONV 010100 CASE HAS BEEN CONVERTED FOR Y/2K UPGRADE ON [illegible]
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OIND 041399 [illegible] INDICTMENT FILED

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12:54:58 Wednesday, November 30, 2022

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CASE 199100042 ST C SYED, ADNAN 926934 COD R DCX C 060399
EVENT DATE OPEN BAIL TIME ROOM PART / EVENT COMMENT
COMM 041399 C88 FILED APP - HASH, VICKI , ESQ 562329
COMM 041499 C78 COMMITMENT REDUCED HEARING - HELD WITHOUT BAIL
COMM 042199 CEX CERT IN
COMM 061398 C8T NOTICE FOR STAY OF ORDER DENYING MOTION TO QUASH &
COMM 051399 C8T SUBPOENA REGARDING CONFIDENTIAL SCHOOL RECORDS FLD
COMM 051399 C8T STATE'S RESPONSE TO MOTION TO QUASH SUBPOENA FLD
COMM 051399 C8T MOTION TO QUASH & SUBPOENA REGARDING CONFIDENTIAL SCHOOL
COMM 051399 C8T RECORDS SUBPOENAED BEFORE THE GRAND JURY FLD
COMM 051799 C8T ENTRY OF APPEARANCE FLD
COMM 051799 C8T DEFT'S OMNIBUS MOTION UNDER RULE 4-252 FLD
COMM 052599 8C3 STATE'S MOTION TO DISQUALIFY DEFENSE ATTNY M GUTIERREZ
COMM 052599 8C3 ORDER, FD - CC: JUDGE BROWN, 6/3/99, PT 14
COMM 052599 8C3 MOTION TO QUASH, FD CC: JUDGE BROWN, 6-3-99, PT 14
HEAL 060399 1 5AA 914;0930;2308;ARRG; ;TSCJ; ;BROWN, R.G. ;019
COMM 060399 5AA SENT FOR 10/13/99 PT 27 DEFT, ARRVED
COMM 060399 5AA FILED APP - MURPHY, STEPHANIE , ESQ 5[illegible]
TRAK 060399 C8B ASSIGNED TO TRACK C - 180 DAYS ON 06/03/1999
COMM 060899 C8B PART RESET FROM ADD-ON SUBMITTED BY LAW CLERK PT 11. [illegible]
COMM 061199 C80 MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING, 07-09-99

NEXT PAGE 4/0 PAGE 002

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199403042 ST C SYED, ADNAN 528334 COD H DSH C 060399
EVENT DATE OPER CRRT TIME ROOM FEES / EVENT COMMENT
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FILE 061199 CSD FILED APP - MILLEMANN, MICHAEL , BBD
[illegible] 061399 CSA [illegible]
COMM 061699 SBA STATE'S MOTION TO EXTEND TIME TO FILE DISCOVERY FLD
COMM 061699 SBA ORDER/MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING
COMM 061699 SBA EXTENDED TO AND INCLUDING 06/28/99 STATE SHALL FILE ITS
COMM 061699 SBA PLEADING BY 07/06/99 PER JUDGE MITCHELL
COMM 062899 [illegible] DEFT'S. RESPONSE TO STATES MOTION TO DISQUALIFY DEFENSE
COMM 062899 CSD ATTORNEY M CHRISTINA GUTIERREZ
COMM 063099 CHT CC JUDGE MITCHELL 07/05/99 [illegible] FLD
COMM 070199 CHT MOTION TO COMPEL DISCOVERY FLD
COMM 070199 CHT ENTRY OF APPEARANCE FOR KEVIN URICK (875121) STATE'S
COMM 070199 CHT REQUEST FOR DISCOVERY STATE'S DISCLOSURE MOTION FOR JOINT
COMM 070199 CHT TRIAL OF DEFT'S & OFFENSES NOTICE OF PLEA BARGAIN POLICY
COMM 070199 CHT MOTION TO COMPEL PRODUCTION OF TANGIBLE EVIDENCE -
COMM 070299 CHT STATE'S REPLY TO DEFT'S RESPONSE TO STATE'S MOTION TO
COMM 070299 CHT DISQUALIFY DEFENSE ATTORNEY M CHRISTINA GUTIERREZ FLD
COMM 070799 CHT STATE'S MOTION FOR PROTECTIVE ORDER FLD
COMM 070799 SBA MOTION IN LIMINE FLD

12:24:30 Wednesday, November 30, 2022.

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 13|24
CASE 199103042 ST V SYED, ADNAN 328334 CTO # DOB
EVENT DATE CLAS PART TIME ROOM RELS / EVENT COMMENT
COMM 070999 CBO AMENDED STATE'S DISCLOSURE FILED
HEAL 070999 1 CBI 911,0930,230 ;MOTION,SUBC; ;MITCHELL, D.B. ;042
COMM 070999 CBI STATE'S MOTION TO HAVE THE APPEARANCE OF C. GUTIERREZ
COMM 070999 CBI STRICKEN HEARD AND HELD SUB-CURIA PENDING COURT'S DECISION -
COMM 071499 CBT LETTER REC - MOTION TO DISQUALIFY M CRISTINA GUTIERREZ FLD
COMM 072135 BCJ ADNAN SYED'S SUPPLEMENTAL RESPONSE BASED ON STATE'S DIS-
COMM 072199 BCJ CLOSURES RECEIVED BY THE DEFT. SUBSEQUENT TO THE JULY 9TH HRG
COMM 072199 BCJ ON THE STATE'S MOTION TO DISQUALIFY HIS COUNSEL OF CHOICE,FD
COMM 072199 BCJ REQUEST FOR HEARING, FD
COMM 072199 BCJ AMENDED STATE'S DISCLOSURE, FD
COMM 072199 BCJ AFFIDAVIT OF M. CRISTINA GUTIERREZ, FD
COMM 072199 BCJ MOTION FOR LIMITED DISCLOSURE OF THE GRAND JURY TESTIMONY
COMM 072199 BCJ AND THE SEALED HRG BEFORE THE GRAND JURY JUDGE, FD
COMM 072199 BCJ TRANSCRIPT EXCERPT 7/9/99. FD
COMM 072299 CBS CORRESPONDENCE FROM ATTORNEY M. CHRISTINA GUTIERREZ
COMM 072299 CBS MOTION FOR LIMITED DISCLOSURE OF THE GRAND JURY TESTI-
COMM 072299 CBS MONY AND THE SEALED HEARING BEFORE THE GRAND JURY JUDGE
HEAL 072399 1 BBA 911,0930,230 ;HEAR; ;REST; ;MITCHELL, D.B. ;042
COMM 072399 BBA STATE'S MOTION TO DISQUALIFY C GUTIERREZ AS DEFENSE.

NEXT PAGE P/M PAGE 004

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24

CASE 199103042 ST C SYED, ADNAN 978534 [illegible] 060399

EVENT DATE	OPER TEXT TIME ROOM REAS / EVENT COMMENT
COMM 072399	SHA COUNSEL HEARD AND DENIED
COMM 080299	DBB AMENDED STATE'S DISCLOSURE FD
COMM 080299	CDD AMENDED STATE'S DISCLOSURE FILED
COMM 081799	CDG DEFENDANT'S ADNAN SYED'S RESPONSE TO STATE'S MOTION FOR
COMM 081799	CDG PROTECTIVE ORDER FD
COMM 082399	SHA AMENDED STATE'S DISCLOSURE FLD
COMM 090399	CDG AMENDED STATE'S DISCLOSURE FD
COMM 090399	DBA AMENDED STATE'S DISCLOSURE FILED.
COMM 090399	ABA AMENDED STATE'S DISCLOSURE FILED
COMM 090799	DCS DEFT'S. RESPONSE TO STATE'S MOTION IN LIMINE AND
COMM 090799	DBS. [illegible] MOTION TO COMPEL [illegible] JUDGE [illegible]
ACAL 090899	CDT [illegible]
COMM 090899	CDC DEFT'S MOTION RE: DISCOVERY MATERIAL HEARD AND HELD
COMM 090899	CDT SUB-CURIA - (TO BE SET BY COURT [illegible])
COMM 091399	CDT AMENDED STATE'S DISCLOSURE FLD
COMM 091499	SHA MEMORANDUM OPINION AND ORDER
COMM 092499	CDG AMENDED STATE'S DISCLOSURE-FD
COMM 092499	CDG DEFT. ADNAN SYED'S MOTION FOR REVIEW OF [illegible] BAIL
COMM 092499	CDG STATUS BASED ON CHANGE OF CIRCUMSTANCES

12:25:00 [illegible], [illegible] 30, 2002

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11/30/02  CRIMINAL  COURT  OF  BALTIMORE                        CASE INQUIRY  12:24
 CASE 193103042 ST-C SYED, ADNAN                     928331  [illegible] 040399
EVENT DATE    [illegible] PART TIME ROOM [illegible] / EVENT COMMENT
COMM 092799   SBA ORDER/ORDERED THAT THE DEFT. [illegible] MOTIONS SUBMITTED [illegible]
COMM 092799   SBA SEAL OF 09/24/99 SHALL REMAIN SEALED PER. JUDGE [illegible]
COMM 100199   SBA STATE'S REQUEST FOR ADMISSION OF EXCERPTS OF VICTIM DIARY [illegible]
COMM 100199   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 100699   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 1006[illegible]   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101299   CJF MOTION FOR CONTINUANCE FLD
COMM 101299   CGS AMENDED STATE'S DISCLOSURE
COMM 101299   CGS STATE'S OPPOSITION TO THE DEFT'S. MOTION FOR CONTINUANCE
COMM 101299   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101399   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101399   SBA [illegible] TO ADMIN. COURT
RCAL 101399   SBA [illegible] : [illegible] [illegible], [illegible]
RCAL 101399   [illegible] : [illegible] [illegible], [illegible]
COMM 101499   SBA CONT'D TO 12/08/99, PT [illegible] AT 9:30 AM
COMM 101599   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101599   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101499   SBB [illegible] TO ADMIN. COURT
COMM 102199   CGH [illegible]
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[illegible] PAGE   P/N   PAGE 006

11:25:dd Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                        CASE INQUIRY  12:26
 CASE 199103042 ST V SYED, ADNAN                        [illegible]  CRD F DCM C [illegible]
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 120199   CJT POSTPONEMENT FORM-WAIVER OF MD RULE 4-271 REQUIREMENTS FLD
COMM 120199   CJF AMENDED STATE'S DISCLOSURE FLD
COMM 110799   CJT AMENDED STATE'S DISCLOSURE FLD
COMM 113099   DOF AMENDED STATE'S DISCLOSURE FILED
COMM 113099   CJD EX PARTE MOTION FOR THE ISSUANCE OF A SUBPOENA FOR
COMM 113099   CJD TANGIBLE EVIDENCE BEFORE TRIAL & OTHER APPROPRIATE RELIEF FD
COMM 113099   CJD ORDER OF COURT GRANTING EX PARTE MOTION FOR THE
COMM 113099   CJD ISSUANCE OF A SUBPOENA FOR TANGIBLE EVIDENCE FILED
COMM 112499   CJJ AMENDED STATE'S DISCLOSURE FILED
COMM 120199   CJF EX-PARTE MOTION FOR THE ISSUANCE OF A SUBPOENA FOR TANGIBLE
COMM 120199   CJF EVIDENCE BEFORE TRIAL AND OTHER APPROPRIATE RELIEF FLD
COMM 120199   CJT ORDER, FLD
COMM 120199   CJD MOTION FOR A JURY VIEWING OF THE CRIME SCENE, JUDGE
COMM 120199   CJD QUARLES 07-27, 10-13-99
COMM 120399   CJS AMENDED STATE'S DISCLOSURE FD
TRAL 120399 1 CHT 227;0930;406 ;JT  ;  ;CONT;    ;QUARLES, WILLIA;049
COMM 120399   CB? RESET ON 12/07/99 PT27
COMM 120499   CBD AMENDED STATE'S DISCLOSURE FILED
TRAL 120499 1 CHT 227;0930;406 ;JT  ;  ;CONT;    ;QUARLES, WILLIA;049

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12:25:02 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                        CASE INQUIRY  12:26
 CASE 199103042 ST C SYED, ADNAN                  926234  COD 1 DCL C 060399
EVENT DATE    OPER PART TIME ROOM HEAR / EVENT COMMENT
COMM 120899    CRT VOIR DIRE ADMINISTERED
COMM 120899    CRT CONT UNTIL 12/09/99
COMM 120899    CRT DEFT PLEAD NOT GUILTY
TRAL 120999 1 SCJ P27,0930,406 ;JT  ;  ;CONT;    ;QUARLES, WILLIA;AA9
COMM 120999    SCJ NEW PANEL SWORN ON VOIR DIRE; JURY SWORN,.ETC. STATE'S
COMM 120999    SCJ MOTION RE: WATSON, HEARD AND DENIED. CASE NOT CONTINUED TO
COMM 120999    SCJ RESUME ON 12/10/99, PT 27 AT 2:00 PM. DEFT PLEA NOT GUILTY
TRAL 121099 1 SAA P27,0930,406 ;JT  ;  ;CONT;    ;QUARLES, WILLIA;AA9
COMM 121099    SAA STATE'S MOTION FOR SEQUESTRATION GRANTED-CASE CONT. TO
COMM 121099    SAA TO 12/13/99 PT 27
TRAL 121399 1 SCJ P27,0930,406 ;JT  ;  ;CONT;    ;QUARLES, WILLIA;AA9
COMM 121399    SCJ DEFT PLEA NOT GUILTY
TRAL 121499 1 SAA P27,0930,406 ;JT  ;  ;CONT:    ;QUARLES, WILLIA;AA9
COMM 121499    SAA CONT. TO 12/15/99 PT 27
COMM 121599    SAA DEFT. MOTION FOR MISTRIAL HEARD AND GRANTED/MOVE TO ADMIN.
COMM 121599    SAA COURT
COMM 121599    SAA NOT GUILTY PLEA ENTERED
COMM 121699    CRT ARRGT 28
COMM 123099    SAA AMENDED STATE'S DISCLOSURE FILED

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12:25:01 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  12:24
 CASE 199103042 ST O SYED, ADNAN                      [illegible]  COD 0 DOM C [illegible]
EVENT DATE    OPER PART TIME ROOM RESL / EVENT COMMENT
COMM 010700   CAT NOTICE IN LIMINE TO EXCLUDE TESTIMONY OF SHARON WATTS FLD
COMM 010700   CAT DEFT'S MOTION FOR A BRADY HEARING  FLD
HEAL 011000 1 CAT P08,0930,334 ,JT  ;  ,CONT,    ,[illegible], [illegible] RE,DST
COMM 011000   CAT MOTION FOR RECONSIDERATION OF BAIL HEARD AND CONT
COMM 011000   CAT TO 01/11/00 P[illegible]
COMM 011100   CAT TIME IN COURT
HEAL 011100   CAT P08,0930,334 ,JT  ;  ,OTHR,    ,[illegible], [illegible] RE,DST
COMM 011100   CAT MOTION FOR RECONSIDERATION OF BAIL HEARD AND DENIED
COMM 011100   CAT CASE SET FOR TRIAL 01/14/00 P[illegible]
COMM 011300   BBL STATE'S OPPOSITION TO DEFT. MOTION FOR A BRADY HEARING FLD
COMM 011300   BBL STATE'S OPPOSITION TO DEFT. MOTION IN LIMINE TO EXCLUDE
COMM 011300   BBL TESTIMONY OF SHARON WATTS FLD
HEAL 011400 1 CBT P08,0900,334 ,JT  ;  ,CONT,    ,[illegible], [illegible] RE,DST
COMM 011400   CBT MOTION IN LIMINE TO EXCLUDE TESTIMONY OF SHARON WATTS
COMM 011400   CAT HEARD AND HELD SUB-CURIA
COMM 011400   CAT MOTION FOR BRADY HEARING HEARD & HELD SUB-CURIA
COMM 011800   SBA ORDER/MOTION IN LIMINE RE AND IS HEREBY GRANTED UNDER TERMS
COMM 011800   SBA MS WATTS MAY TESTIFY TO HER PERSONAL OBSERVATIONS OF DEFT.
COMM 011800   SBA ORDER/ORDER THAT THE MOTION FOR BRADY HEARING IS DENIED

[illegible]                            8/9                    PAGE 009
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12:25:01 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                          CASE INQUIRY  12124
 CASE 139103042 ST C SYED, ADNAN                          920334  COD N DCN C 000369
EVENT DATE    OPER PART TIME ROOM JUDGE / EVENT COMMENT
COMM 011800   SHA REA, JUDGE HEARD
COMM 011800   SHA [illegible] OPINION FLD
COMM 011800   SHA AMENDED STATE'S DISCLOSURE FILED
TRIAL 012100 1 SCT 809,0930,339 ,JT  ,  ,CONT,   ,HEARD, WANDA HE,087
COMM 012100   SCT ARRAIGNED & STANDS UNDER PLEA OF NOT GUILTY, JURY TRIAL
COMM 012100   SCT ERASED, JURY SWORN ON VOIR DIRE, DEFT PLEA NOT GUILTY
TRIAL 012400 1 CRT 809,0930,339 ,JT  ,  ,CONT,   ,HEARD, WANDA HE,087
COMM 012400   CRT JURY SELECTED AND SWORN
COMM 012400   CRT CONT TO 01/27/00 PTDS
COMM 012400   CRT DEFT PLEAS NOT GUILTY
TRIAL 012700 1 CRT 809,0930,339 ,JT  ,  ,CONT,   ,HEARD, WANDA HE,087
COMM 012700   CRT MOTION TO [illegible] WITNESS HEARD AND GRANTED
COMM 012700   CRT CASE CONT TO 01/28/00 PTDS
COMM 012700   CRT DEFT PLEAS NOT GUILTY
COMM 012700   CRT DEFT'S REQUEST TO DISMISS PANEL HEARD & DENIED
COMM 012700   CRT DEFT'S MOTION TO HAVE JURY REVIEW CRIME SCENE HEARD &
COMM 012700   CRT RESERVED -
COMM 012700   CRT FILE IN COURT
TRIAL 012800 1 CRT 809,0930,339 ,JT  ,  ,CONT,   ,HEARD, WANDA HE,087

NEXT PAGE                                         F/H                      PAGE C [illegible]
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12:35:02 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24

CASE 193103062 ST C SEED, ADNAN 928331 CCO N DCN C 060395

EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT

COMM 012800 CRT CASE CONT TO 01/31/00 PT09

COMM 012800 CRT FILE IN COURT

HCAL 013100 1 CRT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KS;887

COMM 013100 CRT CASE CONT TO 02/01/00 PT09 AT 9:30 AM

COMM 013100 CRT DEFT PLEAS NOT GUILTY

HCAL 020100 1 CRT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KS;887

COMM 020100 CRT CASE CONT TO 02/02/00 PT09

COMM 020200 [illegible] CONT. TO 02/03/00 [illegible] DEFT. PLEA NOT GUILTY

COMM 020400 CRT CASE CONT TO 02/08/00 PT09

COMM 020400 CRT DEFT PLEAS NOT GUILTY

HCAL 020800 1 CRT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KS;887

COMM 020000 CRT MOTION IN LIMINE TO PRECLUDE ASKING ABOUT ALL PERSON

COMM 020000 CRT HEARD & GRANTED - NO FILE IN COURT

HCAL 020800 CRT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KS;887

COMM 020800 CRT DEFT PLEAS NOT GUILTY -

HCAL 020900 1 CRT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KS;887

COMM 020900 CRT MOTION FOR MISTRIAL HEARD AND DENIED

COMM 020900 CRT MOTION THAT DEFT NOT BRING UP POSSIBLE MISTAKES IN FRONT

COMM 020900 CRT OF JUROR? HEARD AND DENIED

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                          CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                          928334  CCD R DCS C 000399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 020900    CRT MOTION TO STRIKE MR. [illegible] TESTIMONY HEARD AND DENIED
COMM 020900    CRT JUROR 46 TO BE REPLACED WITH ALT #1 -
TRAL 021000 1  CRT P09;0930;339 ;JT  ;  ;[illegible];   ;HEARD, WANDA KE;887
COMM 021000    CRT MOTION TO COMPEL OF DISCOVERY HEARD & DENIED - & IF THERE
COMM 021000    CRT ARE ANY ITEMS THEY SHOULD BE BROUGHT TO THE JUDGE, ETC
TRAL 021000    CRT P09;0930;339 ;JT  ;  ;[illegible];   ;HEARD, WANDA KE;887
COMM 021000    CRT MOTION TO QUESTION WITNESS OUTSIDE OF MR. URICK PRESENCE
COMM 021000    CRT (VOIR DIRE) ON EACH WITNESS DEF COUNSEL HEARD & DENIED
COMM 021000    CRT MOTION TO HAVE MR URICK TO BE MADE A WITNESS FOR THE DEFENSE
COMM 021000    CRT HEARD AND HELD UNTIL DEFENSE GIVES GOOD REASON FOR ACTION
TRAL 021100 1  CRT P09;0930;339 ;JT  ;  ;[illegible];   ;HEARD, WANDA KE;887
COMM 021100    CRT MOTION TO HAVE MR URICK AS A WITNESS HEARD & DENIED
COMM 021100    CRT MOTION TO HAVE NOTES OF POLICE INTERVIEW DURING NON-
COMM 021100    CRT RECORDED INTERVIEW HEARD & GRANTED -
COMM 021100    CRT MOTION TO STRIKE MR. WILD'S TESTIMONY HEARD & DENIED -
COMM 021100    CRT BUT DEFT CAN BRING UP CREDIBILITY OF WITNESS "WILD" -
COMM 021100    CRT MR. WILDS IS TO BE INSTRUCTED TO BE KEPT AWAY FROM JURORS -
COMM 021100    CRT MOTION TO HAVE VIDEO TAPE OF MR. WILDS ARRAIGNMENT OR [illegible]
COMM 021100    CRT WITH MCCURDY, [illegible] CASE #[illegible]50001 HEARD & GRANTED -
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12:28:07 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                         CASE INQUIRY  12:34
 CASE 199103042 ST C SYED, ADNAN                      926534  LOG N DCM C 000298
EVENT DATE   OPER PART TIME ROOM RSLT / EVENT COMMENT
COMM 021100    CAT MOTION FOR FULL DISCLOSURE OF HOW MR WILDS GOT LAWYER HEARD
COMM 021100    CAT AND DENIED - MOTION TO HAVE MR WILDS LAWYER TO COME IN FOR A
COMM 021100    CAT HRG ON HOW SHE WAS HIRED HEARD & GRANTED -
COMM 021100    CAT REQUEST TO HAVE NO ONE SPEAK TO MR WILDS LAWYER ABOUT CASE
COMM 021100    CAT HEARD & GRANTED - MOTION TO LIMIT THE READING DEFT HAS BEEN
COMM 021100    CAT GIVEN HEARD & DENIED - MOTION TO ALLOW DEFT TO SAY GREETING
COMM 021100    CAT THE LAWYER FOR MR WILDS HEARD & DENIED - ITS A PRIVILEGE
COMM 021100    CAT REQUEST AN ORDER TO NO ONE TALK TO MR WILDS ABOUT HOW HE
COMM 021100    CAT GOT HIS LAWYER HEARD AND GRANTED -
COMM 021100    CAT MOTION OF LIMITING PART THE LINE OF QUESTIONING ON MR WILDS
COMM 021100    CAT LAWYER HEARD & GRANTED
TRAL 021400 1 CAT P09,0930,339 JUT  J  ;CONT;    ;HEARD, WANDA KE;007
COMM 021400    CAT MOTION TO ELIMINATE THE LINE OF QUESTIONING ABOUT THE
COMM 021400    CAT LAWYER HEARD AND GRANTED. TIC
TRAL 021500 4 CAT P09,0930,339 JUT  J  ;CONT;    ;HEARD, WANDA KE;007
COMM 021500    CAT CASE CONT TO 02/16/00 PTCA
COMM 021500    CAT DEFT'S MOTION IN LIMINE TO PRECLUDE ANY QUESTIONS ABOUT
COMM 021500    CAT DOUBLE HEAR SAY BY J.. PUSATERI HEARD AND DENIED
TRAL 021500    CAT P09,0930,339 JUT  J  ;CONT;    ;HEARD, WANDA KE;007
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11/16/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:34
 CASE 199103042 ST V STED, ADNAN                  [illegible]  DOB W DOC C 060399
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 021500   CRT DEFT'S MOTION IN LIMINE TO EXCLUDE T.D. OF VOICE ON THE
COMM 021500   CRT [illegible] HEARD AND DENIED -
HEAL 021600 1 CRT 900;0930;523 ;JT  ;  ;CONT;    ;HEARD, WANDA KE;327
COMM 021600   CRT CASE CONT TO 02/17/00 2509
COMM 021600   CRT DEFT PLEAS NOT GUILTY
HEAL 021700 1 CRT 900;0930;523 ;JT  ;  ;CONT;    ;HEARD, WANDA KE;487
COMM 021700   CRT CASE CONT TO 02/18/00 2709
HEAL 021800 1 CRT 900;0930;339 ;JT  ;  ;CONT;    ;HEARD, WANDA KE;287
COMM 021800   CRT AT THE END OF STATE'S CASE DEFT'S MOTION FOR JUDGMENT OF
COMM 021800   CRT ACQUITTAL HEARD & DENIED
COMM 021800   CRT CASE CONT TO 02/22/00 9900 - DEFT [illegible] NOT GUILTY
HEAL 022200 1 CRT 905;0930;523 ;JT  ;  ;CONT;    ;HEARD, WANDA KE;187
COMM 022200   CRT STATE'S MOTION IN LIMINE RE: PRIOR CONVICTIONS OF [illegible]
COMM 022200   CRT [illegible] HEARD & GRANTED IN PART & DENIED IN PART
COMM 022200   CRT STATE'S MOTION IN LIMINE TO EXCLUDE 9/7/99 VIDEO TAPE  HEARD
COMM 022200   CRT AND GRANTED - STATE'S MOTION TO EXCLUDE TESTIMONY OF
COMM 022200   CRT [illegible] HEARD AND DENIED -
COMM 022200   CRT CASE CONT TO 02/23/00 2109 AT 9:30 AM -
HEAL 022300 1 CRT 905;0930;394 ;JT  ;  ;CONT;    ;HEARD, WANDA KE;[illegible]
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 BY C BYRD, ADAMS 508334 CID B COM C 860399
EVENT DATE OPER PART TIME ROOM DESC / EVENT COMMENT
COMM 022300 CHT STATE'S MOTION IN LIMINE TO EXCLUDE THE TESTIMONY
COMM 022300 CHT OF ELIZABETH JULIAN.HEARD AND GRANTED
COMM 022500 CHT CASE CONT TO 02/24/00 P109 - DEFT PLEAS NOT GUILTY
SCHL 022400 1 CHT P09,0930,350 ;JT ; ;CONT; ;HEARD, WANDA KE;HBT
COMM 022400 CHT AT THE CLOSE OF THE ENTIRE CASE DEFT'S RENEWED MOTION FOR
COMM 022400 CHT JUDGEMENT OF ACQUITTAL HEARD AND DENIED
COMM 022400 CHT CASE CONT TO 02/25/00 P109
COMM 022500 CHT VERDICT GUILTY [illegible]
COMM 022500 CHT RESET FOR 04/05/00 P709
COMM 022500 CHT ISSUE WAIT CASE - [illegible]
SCHL 022500 1 CHT P09;0930;559 ;[illegible] ;HEARD, WANDA KE;HBT
SCHL 022500 BGY P09,0900,400 ;JT ;[illegible] ;HEARD, WANDA KE;HBT
COMM 030200 CLE RESET FROM COURT DOCKET 022500. 15
COMM 030900 BHA MOTION FOR NEW TRIAL FLD
SCHL 040500 BHA P09;0930;[illegible] ;DISP; ;POST;[illegible];HEARD, WANDA KE;HBT
COMM 040500 BHA DEFT. MOTION TO STRIKE THE APPEARANCE OF B CHRISTIAN
COMM 040500 BHA [illegible] HEARD AND GRANTED/RESET TO ADG/C6/00 PT 09
COMM 040500 BHA PSI REQUEST
COMM 052900 CHD DIVISION OF PAROLE AND PROBATION INVESTIGATION

12:25:03 Wednesday, November 30, 2022

12:25:04 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST [illegible], [illegible] 520334 [illegible] 040399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
CCHK 040300 CHS [illegible] OFFICIAL COURT REPORTER-AMOUNT $232.50.
ACRS 042800 CHS ACTIVATED FOR ERROR CORRECTION
CCAS 042800 CHS CASE CLOSED - ALL COUNTS DISPOSED [illegible]
APPL 042800 CHS APPEAL/APPEAL TO COURT SPECIAL APPEAL FILED
CCHK 042800 CHS ******ENTRY OF APPEAL FILED ON 2-28-00 IS INCORRECT.
CCHK 042800 CHS CORRECT DATE APPEAL FILED IS 5-5-00.....
CCHK 100300 CHS CHRISTOPHER METCALF, TURNED IN TRANSCRIPTS FOR THIS CASE.
CCHK 103000 CHS TRANSCRIPT OF PROCEEDINGS DATED 2-9,10,[illegible]-00
CCHK 122000 CHS EXTENSION OF TIME TO FILE TRANSCRIPT WITH CLERK ON 12-28-00
CCHK 122000 CHS AND TRANSMIT RECORD BY 02-10-01..
CCHK 012501 CHS EXTENSION OF TIME TO FILE TRANSCRIPT WITH CLERK ON 02-12-01
CCHK 012501 CHS AND TO TRANSMIT RECORD BY 03-[illegible]-01. [illegible], CLERK OF COURT
CCHK 013001 CHS EXTENSION OF TIME [illegible]-23-01, [illegible], CLERK CT.
CCHK 042001 CHS TRANSCRIPT OF PROCEEDINGS DATED 12-1[illegible]-00, [illegible]
CCHK 042001 CHS [illegible] OFFICIAL COURT REPORTER, AMOUNT $1,[illegible].00.
CCHK 051401 CHS [illegible], TURNED IN A TRANSCRIPT FOR THIS CASE.
CCHK 110901 CHS EXTENSION OF TIME 12-3-01, [illegible], CLERK CT.
CCHK 120601 CHS ORIGINAL PAPERS FORWARDED TO COSA VIA CERTIFIED MAIL
CCHK 120601 CHS 7000 0600 0022 4699 3985, 7000 0600 0022 4693 3984, 7000

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12:25:04 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 19910304[illegible] ST C [illegible], [illegible] [illegible] CPO W [illegible] C [illegible]
EVENT DATE OPER PART TIME ROOM JUDGE / EVENT COMMENT
COMM 120301 [illegible] [illegible], (4) [illegible], (4) [illegible] EXHIBITS
COMM 120301 CAN (1) LARGE BOX TRANSCRIPTS. ****(3) LARGE BOXES
COMM 120401 CAG RECEIPT FOR TRANSCRIPT OF RECORD RECEIVED FROM COSA
COMM 012802 CAG LETTER FROM COSA REQUESTING THE RULE 120.
COMM 012802 CAG THE ORIGINAL RULE 120 WAS FORWARDED WHEN CASE WAS TRANSMITTED
COMM 012802 CAG A 2ND COPY WILL BE FORWARDED TODAY.
COMM 050703 C2C PETITION FOR WRIT OF CERTIORARI FILED IN THE COURT OF
COMM 050703 C2C APPEALS OF MARYLAND, PER ALEXANDER T. [illegible].
COMM 061603 CJL MANDATE RETURNED & RECEIVED/JUL
APPR 061803 CJL A/AC:APPEAL RETURNED-JUDGMENT AFFIRMED
CCAP 061803 CJL CASE CLOSED [illegible]
COMM 061603 CJL MANDATE COURT OF SPECIAL APPEALS,NO:[illegible],SEPT.TERM.2000
COMM 061603 CJL OPINION; JUDGMENT AFFIRMED
COMM 061603 CJL MANDATE ISSUED; [illegible]/18/03
COMM 062503 C[illegible] ORDERED BY THE COURT OF APPEALS THAT THE PETITION BE AND IT
COMM 062503 C[illegible] IS HEREBY DENIED AS THERE HAS BEEN NO SHOWING THAT REVIEW
COMM 062503 C[illegible] BY CERTIORARI IS DESIRABLE AND IN THE PUBLIC INTEREST.
COMM 062503 C[illegible] BELL, C. J.
PCPT 092810 C[illegible] POST CONVICTION FILED

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12:26:05 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  13:24
 CASE 199103042 ST C 0286, [illegible]               990336  COD N CRM C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 052810   CPB PETITION FOR POST-CONVICTION RELIEF FILED BY DEFENDANT
COMM 052810   CPB ATTORNEY PC#10492
COMM 061610   SBA FILE ORDERED FROM ARCHIVES OF 00
COMM 061410   CPE MOTION TO DISMISS POST CONVICTION PETITION AND RESPONSE
COMM 061410   CPE FILED BY THE STATE.
COMM 061710   CJT ASSIGNED JUDGE MARTIN WELCH JR. RETURNED TO CHECK IN THE
COMM 061710   CJT CRIM CLERKS OFFICE 6/17/10 JT.
COMM 062810   CJB DELIVERED ORIGINAL FILE AND PC FILE TO JUDGE WELCH.
COMM 072310   CTL COPY PC , F 818; 12/20/10, CTL PTR ADD-ON FORM
COMM 101410   CML MOTION TO SEAL FILED BY DEFENDANT ATTORNEY AND FORWARDED
COMM 101410   CML TO JUDGE WELCH.
COMM 101510   CPW MOTION FOR CERTIFICATION THAT WE OUT OF STATE WITNESS
COMM 101510   CPW IS NEEDED IN THIS STATE FILED BY DEFENDANT ATTORNEY
COMM 101510   CPW AND FORWARDED TO JUDGE WELCH.
COMM 102810   CPB MOTION FOR SUBPOENA FOR TANGIBLE EVIDENCE FILED BY
COMM 102610   CPB THE STATE AND FORWARDED TO JUDGE WELCH.
COMM 102710   SSB TRANSCRIPTS  ORDERED FROM ARCHIVES
COMM 102910   SSB TRANSCRIPTS RECEIVED FROM ARCHIVES ( 2 BOXES)
COMM 110410   CPE ORDER: IT IS THIS 1ST DAY OF NOVEMBER, 2010, AFTER CAREFUL

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12:26:23 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 BY C SYED, ADNAN                  925134  COD N DCN C 960339
EVNT DATE   OPER PART TIME ROOM RESP / EVENT COMMENT
COMM 110410   CFB CONSIDERATION OF THE PETITIONER'S MOTION FOR CERTIFICATION
COMM 110410   CFB THAT OUT-OF-STATE WITNESS IS NEEDED IN THIS STATE. ORDERED
COMM 110410   CFB THAT THE MOTION IS HEREBY GRANTED; AND IT IS FURTHER ORDERED
COMM 110410   CFB THAT THE CLERK OF THIS COURT SHALL ISSUE FORTHWITH A
COMM 110410   CFB CERTIFICATE UNDER SEAL OF THIS COURT CERTIFYING TO THE
COMM 110410   CFB WASHINGTON COUNTY, OREGON, IN OREGON'S JUDICIAL DISTRICT,
COMM 110410   CFB THAT ASIA MCCLAIN OF 2420 NW [illegible] TERRACE, HILLSBORO
COMM 110410   CFB OR 97124, IS A MATERIAL WITNESS IN THE ABOVE-CAPTIONED CASE
COMM 110410   CFB AND THAT HER PRESENCE AS A WITNESS AT THE POST-CONVICTION
COMM 110410   CVS CERTIFICATE TO SECURE THE ATTENDANCE OF AN OUT-OF-STATE
COMM 110410   CVS WITNESS FILED.
COMM 110410   CVS THIS IS TO CERTIFY TO CIRCUIT COURT FOR WASHINGTON COUNTY
COMM 110410   CVS OREGON, THAT: 1. PET. IN ABOVE CAPTIONED CASE WAS CONVICTED
COMM 110410   CVS OF MUR, AND HAS FLD A POST CON. PET. THE HEARING ON THAT
COMM 110410   CVS POST CON. IS SCHEDULED 12/20/10. 2. ASIA MCCLAIN IS A
COMM 110410   CVS MATERIAL WIT. FOR THIS HEARING. IN MARCH OF [illegible],MS MCCLAIN
COMM 110410   CVS SIGNED A AFFIDAVIT, WITNESSED BY AT LEAST 2 INDIVIDUALS,
COMM 110410   CVS STATING THAT SHE WAS WITH DEF WHEN MUR. OCCURRED, BUT SHE
COMM 110410.  CVS WAS NEVER CONTACTED BY DEFENSE. SHE ALSO WROTE MULTIPLE

NEXT PAGE                                P/H                       PAGE 020
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                        CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                        528334  CO5 B CCL C 060399
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 110410    CVB LETTERS TO DEF. STATING SHE WOULD BE WILLING TO HELP IN HIS
COMM 110410    CVB CAS. IF ONLY SOMEBODY FROM THE DEFENSE WOULD CONTACT HER.
COMM 110410    CVB 3. WITNESS RESIDES AT 2328 NW DOCKSTER TERRACE, HILLSBORO
COMM 110410    CVB OR 97124. 4. WITNESS WILL NEED TO BE PRESENT TO TESTIFY ON
COMM 110410    CVB 12/20/10,5. DEFENSE COUNSEL IN ABOVE-CAPTIONED CASE WILL BE
COMM 110410    CVB RESPONSIBLE FOR ALL REASONABLE EXPENSES THAT WITNESS INCURS.
COMM 110410    CVB 6. TAKE OF MD. AND ALL STATES THROUGH WHICH THE WIT. MAY BE
COMM 110410    CVB REQUIRED TO PASS, WILL GIVE TO HER PROTECTION FROM ARREST
COMM 110410    CVB AND THE SERVICE OF CIVIL AND CRIMINAL PROCESS. 7. BY ORDER
COMM 110410    CVB OF THE HONORABLE MARTIN P. WELCH, JUDGE OF THE CIR. CT. OF
COMM 110410    CVB BALT. CITY, OREGON, IS REQUESTED, PURSUANT TO THE UNIFORM ACT
COMM 110410    CVB TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT A STATE
COMM 110410    CVB IN CRIM. PROCEEDINGS, TO ISSUE AN APPROPRIATE ORDER
COMM 110410    CVB COMMANDING THE SUMMONING OF SAID WITNESS TO THE TRIAL IN
COMM 110410    CVB THE ABOVE-CAPTIONED CASE ON OR ABOUT 12/20/10. WITNESS: THE
COMM 110410    CVB HONORABLE MARTIN P. WELCH, JDG OF THE CIRCUIT COURT FOR BALT
COMM 110410    CVB MD. THIS 1ST DAY OF NOV, 2010, JUDGE MARTIN WELCH.
COMM 110410    VGI CERT HEAR; PIB; 11/29/10; VGI  (HE ADD OR PER IN CT GL)
COMM 110910    CHB TWO BOXES OF BRICK BINDERS W/TRANSCRIPTS,ETC. DELIVERED TO

NEXT PAGE                                      N/A                  PAGE 021
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12:15:06 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                          CASE INQUIRY  12:21
 CASE 199103042 [illegible] C SYED, ADNAN                  [illegible]  [illegible] D [illegible] C-040300
EVENT DATE   DESK PART TIME ROOM [illegible] / EVENT COMMENT
COMM 110810   CMS JUDGE WELCH' CHAMBERS.
COMM 111710   CFI PETITIONER'S RESPONSE TO STATE'S MOTION FOR SUPPLEMENT
COMM 111710   CFI FOR [illegible] EVIDENCE FILED AND FORWARDED TO JUDGE WELCH.
HEAR 113010   SET P18,0200,234 ,HEAR,  ,OTHR,   ,WELCH, MARTIN P,452
COMM 112910   SWT WRITTEN OPINION TO BE ISSUED
COMM 120210   CFI ORDER, IT IS THIS 30TH DAY OF NOVEMBER, 2010, FOLLOWING A
COMM 120210   CFI HEARING ON THE SECOND, THE STATE'S MOTION IS HEREBY GRANTED
COMM 120210   CFI IN PART. IT BEING SO ORDERED: PETITIONER IS TO PROVIDE ANY
COMM 120210   CFI PORTIONS OF THE FILE MAINTAINED BY CHRISTINA GUTIERREZ IN
COMM 120210   CFI IN CONNECTION WITH THE INVESTIGATION AND TRIAL FOR STATE V.
COMM 120210   CFI ADNAN SYED, CASE NOS 199103042-046, INCLUDING DOCUMENTS,
COMM 120210   CFI RECORDINGS, PHOTOGRAPHS AND OTHER TANGIBLE THINGS WHICH
COMM 120210   CFI SUPPORT THE PETITIONER'S ALLEGATIONS AS SET FORTH IN HIS
COMM 120210   CFI PETITIONER'S AS SET FORTH IN HIS PETITION FOR POST-
COMM 120210   CFI CONVICTION RELIEF. PETITIONER IS TO COMPLY WITH THIS ORDER
COMM 120210   CFI ON OR BEFORE JANUARY 15, 2011 PER JUDGE WELCH.
COMM 120710   CSS RECEIVED PC 12-20 PER REMOVAL [illegible] [illegible] 99.
COMM 121010   VGI COST PC  , P18, 01/08/11, VCI   (PR [illegible] ON PER LT OR SI)
HEAR 122010   CSS P18,0200,234 ,PC   ,    ,POST,CNK,WELCH, MARTIN P,452
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  12:24
 CASE 198107012 ST C SYED, ADNAN                     92831   COD M DCB C 060399
EVENT DATE   OPER PART TIME ROOM JUDG / EVENT COMMENT
COMM 061311   CMB SAID WITNESS TO SHOW CAUSE TO SHOW CAUSE, IF ANY HE HAS,
COMM 061311   CMB WHY HE SHOULD NOT BE ORDERED TO ATTEND THE TRIAL OF THIS
COMM 061311   CMB CASE- WELCH J
COMM 062711   CMR SUPPLEMENT TO PETITION FOR POST CONVICTION RELIEF FILED BY
COMM 062711   CMR DEFENDANT ATTORNEY AND FORWARDED TO JUDGE WELCH.
WCAL 080811 1 CAT PO8,0900,230 ,TC  ,  ,CONT,   ,WELCH, MARTIN P,9A2
COMM 080811   CAT CASE CONTINUED TO 10/20/11 PART 08, ISSUE WRIT TO DOC
COMM 081011   CTJ CERT PC  ; PIN; 10/20/11; CTJ [DOC-8-8-11/PG.30]
COMM 090811   CEM CERT PC  ; PIN; 02/06/12; CEM; PER MEMO-ON 9/8/11
COMM 090811   CAM CERT PC  ; PIN; 01/06/12; CEM; PER MEMO-ON 9/8/11
COMM 092911   CSW MOTION TO DISQUALIFY COUNSEL AND SUPPORTING MEMORANDUM
COMM 092911   CSW OF LAW FILED BY DEFENDANT ATTORNEY AND FORWARDED TO J. WELCH
COMM 101311   CMR STATE'S RESPONSE TO PETITIONER'S MOTION TO DISQUALIFY
COMM 101311   CMR COUNSEL FILED AND FORWARDED TO JUDGE WELCH.
WCAL 102011   CSM P18,0930,228 ,PC  ,  ,POST,CAN,WELCH, MARTIN P,9A2
COMM 111611   CMR PETITIONER'S NOTICE OF EXPERT WITNESS TESTIMONY FILED
COMM 111611   CMR BY DEFENDANT ATTORNEY AND FORWARDED TO JUDGE WELCH.
COMM 012012   CAS FILED ASA - MURPHY, KATHLEEN               , ESQ 590824
COMM 012012   CAS STATE'S MOTION TO EXCLUDE STATE'S MOTION TO STRIKE FILED.

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12:25:37 Wednesday, November 30, 2022

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11/30/22 CRIMINAL COURT OF BALTIMORE                    CASE INQUIRY 12:24
 CASE 199103042 97 C SYED, ADNAN              924394  COD N DCN C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
HEAL 020612   SCB PTR:C200/221 (EC -A  POTHRJ   /WELCH, MARTIN P:BAZ
COMM 020612   SCB PETITIONER'S MOTION TO DISQUALIFY ASA K.C. MURPHY IS HEARD
COMM 020612   SCB HEARD & DENIED. STATE'S MOTION TO EXCLUDE THE POLYGRAPH
COMM 020612   SCB EXAMINER'S TESTIMONY IS HEARD: HEARD & GRANTED. STATE'S MO-
COMM 020612   SCB TION TO PRECLUDE PETITIONER FROM CALLING EXPERT WITNESS FOR
COMM 020612   SCB CERTAIN OPINIONS IS HEARD & DENIED
COMM 021412   CFB ORDER: IT IS THIS 14TH DAY OF FEBRUARY, 2012, ORDERED
COMM 021412   CFB PETITIONER'S MOTION TO DISQUALIFY COUNSEL IS HEREBY
COMM 021412   CFB DENIED. STATE'S MOTION TO EXCLUDE IS GRANTED IN PART,
COMM 021412   CFB IN THAT TESTIMONY BY PETITIONER'S NOTED EXPERT, POLYGRAPH
COMM 021412   CFB EXAMINER DAN SEILER, IS EXCLUDED. STATE'S MOTION TO EXCLUDE
COMM 021412   CFB IS DENIED IN PART, IN THAT PETITIONER'S REFERENCES TO
COMM 021412   CFB POLYGRAPH EVIDENCE ORALLY AND IN WRITING SHALL NOT BE
COMM 021412   CFB STRICKEN FROM THE RECORD IN THIS MATTER. STATE'S MOTION
COMM 021412   CFB TO EXCLUDE IS DENIED IN PART, IN THAT PETITIONER'S NOTED
COMM 021412   CFB EXPERT, MARGARET MEAD, SHALL NOT BE PRECLUDED FROM
COMM 021412   CFB TESTIFYING REGARDING LIKELY PLEA OFFERS IN CASES SUCH AS
COMM 021412   CFB THE PETITIONER'S TRIAL AND JUDGE WELCH.
COMM 033512   VET REMOVE SEN BY CLERK FR JUDGE WELCH. CI)

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12:25:07 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 19?????? ST V ?????, ????? ??????? DOB ? ? ? ??????
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
SCAL 030612 ??? P16;0200;??? ;PC ; ;POST;CAN;WELCH, MARTIN P;BAZ
COMM 030612 CTU CERT PC ; P16, 07/26/12; CTU (AUTO-ON ED, PER LAW CLERK)
COMM 030612 CTU CERT PC ; P13, 08/09/12; CTU (AUTO-ON ED, PER LAW CLERK)
COMM 030612 ??? PC HEARING POSTPONED, RESET 7-26-12 PT.16; ISSUE DOC WRIT-
COMM 071212 CEN CERT PC ; P16; 10/11/12; CEN; PER ADD-ON 7/12/12
COMM 071212 CEN CERT PC ; P16; 10/25/12; CEN; PER ADD-ON 7/12/12
COMM 071212 CTL DATE OF 7/26/12 REMOVED PER CHANGE OF DOCKET REQUEST FORM,IC
SCAL 072612 CTL P16;0200;??? ;PC ; ;POST;CAN;WELCH, MARTIN P;BAZ
COMM 072612 ??? REMOVED
SCAL 080912 CEE P16;0200;??? ;PC ; ;POST;CAN;WELCH, MARTIN P;BAZ
SCAL 101112 ? SBT P16;0200;??? ;PC ; ;CONT; ;WELCH, MARTIN P;BAZ
COMM 101112 SBT HEARING CONTINUED 10/25/12 IN PART ? @ 2:00 P.M. - ??????
COMM 101112 SBT DOC WRIT - FILE IN COURT
SCAL 102512 ? SBT P16;0200;??? ;PC ;HE;????; ;WELCH, MARTIN P;BAZ
COMM 102512 SBT HEARING HELD ??????, ?????? WITNESS ???? - FILE W/LAW CLERK
COMM 010614 ??? POST CONVICTION DENIED
CCAS 010614 ??? CASE CLOSED ????
COMM 010714 ??? ???? STARTED 1/6/14, ? ORDERED 12/30/13, MEMORANDUM OPINION
COMM 010714 ??? AND ORDER: ORDERED THAT ALL OF PETITIONER'S REQUESTS FOR

NEXT PAGE ?/? PAGE: 0?6

12:29:09 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                         CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                   928334  DOD R DOA C 000593
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
HCAD 030612   TEJ P18;0200,230 ;PC  ;  ;POST;CON;WELCH, MARTIN P;8A2
COMM 030612   CTJ CERT PC  ; P18; 07/26/12; CTJ (ADD-ON) PD. PER LAW CLERK)
COMM 030612   CTJ CERT PC  ; P14; 09/09/12; CTJ (ADD-ON PD. PER LAW CLERK)
COMM 030612   SRR PC HEARING POSTPONED. RESET 7-26-12 PT.18; ISSUE DOC WRIT.
COMM 071312   CEM CERT PC  ; P16; 10/11/12, CEM; PER ADD-ON 7/13/12
COMM 071312   CEM CERT PC  ; P18; 10/20/12, CEM; PER ADD-ON 7/13/12
COMM 071812   CTL DATE OF 7/26/12 REMOVED PER CHANGE OF COURT REQUEST MADE TO
HCAL 072612   CTC P18;0900,228 ;PC  ;  ;POST;CON;WELCH, MARTIN P;8A2
COMM 072612   SCB ADMONISHED
HCAL 080912   CEM P18,0200,228 ;PC  ;  ;POST;CON;WELCH, MARTIN P;8A2
HCAL 101112 1 SST P18,0200,228 ;PC  ;  ;CONT;  ;WELCH, MARTIN P;8A2
COMM 101112   SST HEARING CONTINUED 10/25/12 IN PART 8 A 2:00 P.M.   ISSUE
COMM 101112   SST DOC WRIT - PRIS IN COURT
HCAL 102512 1 SST P18;0200,228 ;PC  ;HELD;  ;  ;WELCH, MARTIN P;8A2
COMM 102512   SST RULING HELD SUBCURIA PENDING WRITTEN MEMO - FILE W/LAW CLERK
PCDN 010614   CTH POST CONVICTION DENIED
COMM 010614   CTL CASE CLOSED  QUIT
COMM 010714   CPE DATE STAMPED 1/6/14, A DECREE 12/30/13, MEMORANDUM OPINION
COMM 010714   CTL AND ORDER: ORDERED THAT ALL OF PETITIONER'S REQUESTS FOR
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NEXT PAGE                                       P/N                     PAGE 026
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24

CASE [illegible] ST C [illegible], [illegible] [illegible] CTO N [illegible] C 060359

EVENT DATE [illegible] / EVENT COMMENT

CORR 042315 15C ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE
CORR 042315 15C CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS COURT, ON
CORR 042315 15C OR BEFORE APRIL 30, 2015, THE TRANSCRIPT OF THE TRIAL HELD
CORR 042315 15C FROM JANUARY 31, 2000 TO FEBRUARY 25, 2000. AND IT IS
CORR 042315 15C FURTHER ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR
CORR 042315 15C BALTIMORE CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS
CORR 042315 15C COURT, ON OR BEFORE APRIL 30, 2015. THE TRANSCRIPTS FROM THE
CORR 042315 15C POST CONVICTION HEARING CONDUCTED ON NOVEMBER 29, 2010,
CORR 042315 15C FEBRUARY 6, 2012, OCTOBER 11, 2012 AND OCTOBER 25, 2012 AND
CORR 042315 15C ALL EXHIBITS ADMITTED AT THE POST CONVICTION HEARING; AND IT
CORR 042316 15C FURTHER ORDERED THAT, UPON RECEIPT IN THIS COURT OF THE
CORR 042315 15C ITEMS SET FORTH ABOVE, THAT THE SAME SHALL BE MADE PART OF
CORR 042315 15C THE RECORD ON APPEAL IN THIS CASE. PER [illegible] [illegible],
CORR 042316 15C CHIEF JUDGE.
CORR 043015 15C ORDER TO SUPPLEMENT, DOCKET ENTRIES, AND (27) TRANSCRIPTS
CORR 043015 15C (4) ENV OF EXHIBITS FORWARDED TO COSA VIA FED EX TRACKING
CORR 043015 15C #0776 7405 0742
CORR 043015 15C TRANSCRIPTS DATED 11/29/10, 2/6/12, 10/11/12, AND 10/25/12
CORR 043015 15C WERE NOT RECEIVED IN THE CLERK'S OFFICE.

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11/30/22  CRIMINAL COURT OF BALTIMORE                          CASE INQUIRY  12:34
 CASE 199103042 SC C SYED, ADNAN                       928334  [illegible]
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 042315   1SC ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE
COMM 042315   1SC CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS COURT, ON
COMM 042315   1SC OR BEFORE APRIL 30, 2015, THE TRANSCRIPT OF THE TRIAL HELD
COMM 042315   1SC FROM JANUARY 21, 2000 TO FEBRUARY 25, 2000; AND IT IS
COMM 042315   1SC FURTHER ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR
COMM 042315   1SC BALTIMORE CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS
COMM 042315   1SC COURT, ON OR BEFORE APRIL 30, 2015, THE TRANSCRIPTS FROM THE
COMM 042315   1SC POST CONVICTION HEARING CONDUCTED ON NOVEMBER 30, 2010,
COMM 042315   1SC FEBRUARY 6, 2012, OCTOBER 11, 2012 AND OCTOBER 25, 2012 AND
COMM 042315   1SC ALL EXHIBITS ADMITTED AT THE POST CONVICTION HEARING; AND IT
COMM 042315   1SC FURTHER ORDERED THAT, UPON RECEIPT BY THIS COURT OF THE
COMM 042315   1SC ITEMS SET FORTH ABOVE, THAT THE SAME SHALL BE MADE PART OF
COMM 042315   1SC THE RECORD ON APPEAL IN THIS CASE. PER PETER B. KRAUSER,
COMM 042315   1SC CHIEF JUDGE.
COMM 043015   1SC ORDER TO SUPPLEMENT, DOCKET ENTRIES, AND (21) TRANSCRIPTS
COMM 043015   1SC (1) BOX OF EXHIBITS FORWARDED TO COSA VIA FED EX TRACKING
COMM 043015   1SC 8076 7493 0742
COMM 043015   1SC TRANSCRIPTS DATED 11/29/10, 2/6/12, 10/11/12, AND 10/25/12
COMM 043015   1SC WERE NOT RECEIVED IN THE CLERK'S OFFICE.
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11/16/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  18:34
 CASE 199103042 ST C BYRD, ADAM                    920334  COD R SCN C 0R0309
EVENT DATE   OPER PART TIME ROOM SCHD / EVENT COMMENT
COMM 050715   CHT RECEIPT FOR TRANSCRIPT OF RECORD REC'D & SIGNED BY L. SHAKER
COMM 060715   CHT CLERK, COURT OF SPECIAL APPEALS.
COMM 061615   CSJ ORDERED 6-10-15 BY COSA THAT THE APPEAL IS STAYED AND THAT
COMM 061615   CSJ APPELLANT'S REQUEST FOR A REMAND TO CIRCUIT COURT IS GRANTED
COMM 061615   CSJ AND THE CASE BE REMANDED TO CIRCUIT COURT WITHOUT AFFIRMANCE
COMM 061615   CSJ OR REVERSAL FOR THE PURPOSE SET FORTH IN FOLLOWING ORDER.
COMM 061615   CSJ ORDERED 6-10-15 THAT THE APPELLANT SHALL FILE HIS MOTION TO
COMM 061615   CSJ TO RE-OPEN THE CLOSED POST CONVICTION PROCEEDING WITHIN
COMM 061615   CSJ 15 DAYS OF THE DATE OF THIS ORDER AND IF HE FAILS
COMM 061615   CSJ TO DO SO, THE STAY SHALL BE LIFTED AND CASE WILL PROCEED
COMM 061615   CSJ WITH THE APPEAL WITHOUT ANY REFERENCE TO OR CONSIDERATION OF
COMM 061615   CSJ OF THE APPELLANT'S SUPPLEMENT TO APPLICATION FOR LEAVE TO
COMM 061615   CSJ APPEAL OR ANY DOCUMENTS NOT PRESENTLY A PART OF THE CIRCUIT
COMM 061615   CSJ COURTS RECORD. FURTHER ORDERED THAT AFTER TAKING ANY ACTION
COMM 061615   CSJ IT DEEMS APPROPRIATE, THE CIRCUIT COURT SHALL FORTHWITH
COMM 061615   CSJ RE-TRANSMIT THE RECORD TO COSA FOR FURTHER PROCEEDINGS.
COMM 061615   CSJ CHIEF JUDGE KRAUSER, JUDGES WOODWARD AND WRIGHT.
COMM 061615   CSJ POST CONVICTION FILE, 28 TRANSCRIPTS, 5 ENV. OF EXHIBITS
COMM 061615   CSJ AND 2 BINDERS ARE IN THE POST CONVICTION FILE AREA N/EPARY.

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12:25:09 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 195103042 ST C SYED, ADNAN                   920336  COD N DSN C 000309
EVENT DATE   OPER PART TIME ROOM JUDG / EVENT COMMENT
COMM 062915   CFN FILED AAG - VIGNARAJAH, THIRUVENDRAN       , CPF 021010
COMM 062915   CFN NOTICE OF ENTRY OF APPEARANCE FILED
COMM 063015   CFN MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS FILED PER
COMM 063015   CFN ATTORNEY PC110432
COMM 063015   CFN J. BIEBERS CHAMBERS WAS TOLD THAT THE CLERK'S OFFICE DID
COMM 063015   CFN RECEIVE MOTION TO REOPEN POST CONVICTION PROCEEDINGS.
COMM 080715   CHS ORDER OF COURT DATED AUGUST 6, 2015, DATE STAMPED AUGUST 7,
COMM 080715   CHS 2015. HAVING REVIEWED THE REMAND ORDER BY THE COURT OF
COMM 080715   CHS SPECIAL APPEALS AND THE MOTION TO RE-OPEN POST CONVICTION
COMM 080715   CHS PROCEEDINGS, IT IS THIS 6TH DAY OF AUGUST, 2015, ORDERED,
COMM 080715   CHS THAT THIS MATTER IS ASSIGNED TO JUDGE MARTIN P. WELCH
COMM 080715   CHS (RET. CIRCUIT COURT FOR BALTIMORE CITY). PT.BRANCH J
COMM 080715   CHS COPY OF ORDER MAILED TO COUNSEL AND DEFENDANT BY CHAMBERS
COMM 080715   CHS PC FILE 410432 GIVEN TO L. HOOSTIS FOR F. TISCANO TO
COMM 080715   CHS SEND TO JUDGE WELCH.
COMM 080715   CHS TRANSCRIPTS AND EXHIBITS IN H. FORWORTH'S OFFICE
COMM 081015   CFN PC FILE AND COPY OF PETITION DELIVERED TO JUDGE WELCH.
COMM 081715   CHS THE S.2C MARKED 10-11,25-12 AND TWO VHS TAPES STATE'S
COMM 081715   CHS EXHIBITS 6 AND 8 GIVEN TO THE COURT REPORTER'S OFFICE

NEXT PAGE                               N/A                          PAGE 030
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12:26:10 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  [illegible]
 CASE 199103042 ST [illegible] SYED; ADNAN              [illegible]  COD [illegible] DEF C [illegible]
ENTRY DATE   CODE PART TIME ROOM,PAGE / EVENT COMMENT
COMM 081715   CHS [illegible] COPY FOR [illegible]
COMM 082015   CHS LETTER DATED 8-14-15 FROM JUDGE MARTIN WELCH TO ALL
COMM 082015   CHS COUNSEL REGARDING STATUS OF PC CASE.
COMM 082415   CSJ SUPPLEMENT TO MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS
COMM 082415   CSJ FLD BY ATTORNEY J. BROWN. CC: JUDGE C. JONES
COMM 082715   SGF SUPPLEMENT TO MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS
COMM 082715   SGF FILED 08/24/15 ERRONEOUSLY FORWARDED TO JUDGE JONES WAS
COMM 082715   SGF FORWARDED TO JUDGE WELCH THRU JUDGE PIERSON'S CHAMBERS.
COMM 090315   CFH MOTION FOR EXTENSION OF TIME TO FILE STATE'S RESPONSE
COMM 090315   CFH TO PETITIONER'S MOTION TO REOPEN CLOSED POST CONVICTION
COMM 090315   CFH PROCEEDINGS AND SUPPLEMENT THERETO FILED BY THE STATE AND
COMM 090315   CFH FORWARDED TO JUDGE WELCH.
COMM 091015   CFH DATE STAMPED 9/10/15, ORDERED 9/9/15, ORDER; ORDERED, THAT
COMM 091015   CFH THE STATE OF MARYLAND'S MOTION IS HEREBY GRANTED, AND IT IS
COMM 091015   CFH FURTHER ORDERED, THAT THE STATE OF MARYLAND'S CONSOLIDATED
COMM 091015   CFH RESPONSE SHALL BE FILED BEFORE 4:30PM ON SEPTEMBER 23, 2015
COMM 091015   CFH PER JUDGE WELCH.
COMM 091015   CFH CHAMBERS SENT COPIES OF THIS ORDER
COMM 092315   CFH CONSOLIDATED RESPONSE IN OPPOSITION TO PETITIONER'S MOTION

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12:75:20 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE [illegible] ST C [illegible]                [illegible]  CID # [illegible] C [illegible]
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
CDMN 092515   [illegible] AND SUPPLEMENT TO REOPEN POST CONVICTION PROCEEDINGS FILED
CDMN 092515   [illegible] BY THE STATE AND FORWARDED TO JUDGE WELCH.
CDMN 100115   [illegible] THE PETITIONER'S LETTER ATTACHING COPY OF REQUESTED EXHIBIT
CDMN 100115   [illegible] TO ACE C. [illegible] [illegible]
CDMN 101915   [illegible] REPLY TO STATE'S CONSOLIDATED RESPONSE IN OPPOSITION TO
CDMN 101915   [illegible] MOTION AND SUPPLEMENT TO RE-OPEN POST-CONVICTION
CDMN 101915   [illegible] PROCEEDINGS FILED PER ATTORNEY AND FORWARDED TO J. WELCH.
CDMN 110615   [illegible] DATE SIGNED 11/6/15, DOCKETED 11/6/15, STATEMENT OF REASONS
CDMN 110615   [illegible] AND ORDER OF THE COURT ORDERED, THAT PETITIONER'S MOTION
CDMN 110615   [illegible] TO REOPEN POST CONVICTION PROCEEDINGS AND SUPPLEMENT THERETO
CDMN 110615   [illegible] IS HEREBY GRANTED; FURTHER ORDERED, THAT THE PARTIES SHALL
CDMN 110615   [illegible] CONTACT THIS COURT WITHIN 10 [illegible] OF THE FILING OF
CDMN 110615   [illegible] THIS ORDER FOR THE PURPOSES OF SCHEDULING A HEARING [illegible]
CDMN 110615   [illegible] JUDGE WELCH.
CDMN 110615   [illegible] CHAMBERS SENT COPIES OF THIS ORDER.
[illegible] 110615   [illegible]
[illegible] 110615   [illegible] CASE ACTIVATED TO SET HEARING
CDMN 121015   [illegible] [illegible] CHAMBERS CONCERNING STATUS UPDATE.
CDMN 121615   [illegible] DATE SIGNED 12/15/15, DOCKETED 12/15/15, SCHEDULING ORDER:

[illegible] PAGE                              P/A                       PAGE 002
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                    998334  CSC B DOB C 052181
EVENT DATE   OPER PART TIME SCHD SEQS / EVENT COMMENT
COMM 121615   CPE ORDERED, THAT A STATUS CONFERENCE SHALL BE HELD ON JANUARY
COMM 121615   CPE 12, 2016 AT 9:30AM. FURTHER ORDERED, THAT THE HEARING FOR
COMM 121815   CPE THE POST CONVICTION PROCEEDINGS IN THE ABOVE CAPTIONED CASE
COMM 121815   CPE SHALL BE HELD ON FEBRUARY 5, 2016 AND FEBRUARY 3, 2016 AT
COMM 121815   CPE 9:30AM PER JUDGE WELCH.
COMM 121815   CPE CHAMBERS SENT COPIES OF THIS ORDER
COMM 122915   CPE DATE STAMPED 12/29/15, ORDERED 12/28/15, REVISED SCHEDULING
COMM 122915   CPE ORDER: ORDERED, THAT A STATUS CONFERENCE SHALL BE HELD ON
COMM 122915   CPE JANUARY 12, 2016 AT 9:30AM; FURTHER ORDERED, THAT THE
COMM 122915   CPE HEARING FOR THE POST CONVICTION PROCEEDINGS IN THE ABOVE
COMM 122915   CPE CAPTIONED CASE SHALL BE HELD ON FEBRUARY 4, 2016 AND
COMM 122915   CPE FEBRUARY 5, 2016 AT 9:30 AM PER JUDGE WELCH
COMM 123015   SEN PER CHAMBERS, ADD-ONS WILL BE SUBMITTED ONCE DATES ARE
COMM 123015   SEN CONFIRMED.
COMM 011116   CPE CONSENT MOTION FOR SUBPOENA FOR TANGIBLE EVIDENCE FILED
COMM 011116   CPE BY ATTORNEY GENERAL OF MARYLAND AND FORWARDED TO J. WELCH.
COMM 011416   CPE DATE STAMPED 1/13/16, ORDERED 1/12/16, ORDER: ORDERED THAT
COMM 011416   CPE PURSUANT TO MARYLAND RULE 4-264, A SUBPOENA SHALL BE ISSUED
COMM 011416   CPE DIRECTING C. JUSTIN BROWN, ESQ., OR HIS DESIGNEE, TO

NEXT PAGE                               7/8                          PAGE 333
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                      929331  [illegible] 060399
EVENT DATE   OPER [illegible] / EVENT COMMENT
CCMM 011416   CTB PRODUCE FOR INSPECTION AND COPYING THE COMPLETE ELECTRONIC
CCMM 011416   CTB AND PAPER FILES OF SYED'S TRIAL COUNSEL, M. CRISTINA
CCMM 011416   CTB GUTIERREZ, AND HER TEAM, AT A LOCATION AGREEABLE, AS SOON AS
CCMM 011416   CTB PRACTICABLE PER J. WELCH.
CCMM 011416   CTB CHAMBERS SENT COPIES OF THIS ORDER
CCMM 011516   CTB DATE STAMPED 1/14/16, DOCKETED 1/15/16, ADDENDUM TO REVISED
CCMM 011516   CTB SCHEDULING ORDER: ORDERED, THAT THE HEARING FOR THE POST
CCMM 011516   CTB CONVICTION PROCEEDINGS IN THE CAPTIONED CASE SHALL BE HELD
CCMM 011516   CTB ON FEBRUARY 3, 2016, FEBRUARY 4, 2016, AND FEBRUARY 5,
CCMM 011516   CTB 2016 AT 9:30AM FOR JUDGE WELCH.
CCMM 011516   CTB CHAMBERS SENT COPIES OF THIS ORDER
CCMM 012216   CML CERT HABE; PET; 02/03/16; CML
CCMM 012216   CML CERT HABE; PET; 02/04/16; CML
CCMM 012216   CML CERT HABE; PET; 02/05/16; CML
CCMM 012916   CTB ORDER OF COURT DATED JANUARY 28, 2016, SECURITY/MEDIA
CCMM 012916   CTB PROPOSED ORDER FILED. ORDER IS SUBJECT TO MODIFICATION
CCMM 012916   CTB BY THE COURT AT ANY TIME. [illegible], J
CCMM 012916   CTB COPIES MAILED TO ALL COUNSEL
HEAL 020316 1 [illegible] ;WELCH, MARTIN P; BA2

NEXT PAGE                                    F/B                    PAGE 031
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12:25:11 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                         CASE INQUIRY  12:24
 CASE 1[illegible] ST C [illegible]                       [illegible]   [illegible]
EVENT DATE    CTRM PART TIME ACCT REAS / EVENT COMMENT
COMM 020216     lgj JOINT MOTION FOR SEQUESTRATION GRANTED; JOINT MOTION FOR
COMM 020216     lgj DEFENDANT'S MOTION AS TO [illegible] WITNESSES GRANTED; STATE'S
COMM 020216     lgj MOTION FOR SEQUESTRATION AS TO MS.CHAUDRY GRANTED, DEFENSE
COMM 020216     lgj RENEWED MOTION AS TO MS.CHAUDRY SUBPOENA; CASE CONTINUED
COMM 020216     lgj TO 02/03/16 IN PART 97 AT 9:30AM; WRIT TO CTC EXTENDED; FILE
COMM 020216     lgj IN COURT
HEAL 020316     STA 297;0930;230 ;[illegible]  ;POST;[illegible] WELCH, MARTIN P;BA2
HEAL 020416 1 CON 297;0930;230 ;[illegible]  ;CONT;   ;WELCH, MARTIN P;BA2
COMM 020416     CMO DEFENSE MOTION FOR SEQUESTRATION AS TO MS.CHAUDRY WAS
COMM 020416     CMO HEREBY "WITHDRAWN", CASE CONT'D TILL 2/05/2016
COMM 020416     CMO PART 97 AT 9:30AM; WRIT EXTENDED; FILE IN COURT
HEAL 020516 1 SET 297;0930;230 ;[illegible]:   :CONT:    ;WELCH, MARTIN P;BA2
COMM 020516     SET HEARING CONTINUES 2/8/16 IN PART 97 @ 9:30 AM - WRIT EXTENDED
COMM 020516     SET FILE IN COURT
COMM 020816     lgj [illegible] 297; 02/02/16; lgj
HEAL 020816 1 CON 297;0930;230 ;[illegible]:   :CONT:    :WELCH, MARTIN P:BA2
COMM 020816     CON CASE CONT'D TILL 2/9/16 PART 97 @ 9:30AM; EXTENDED WRIT
HEAL 020916 1 OPR 297;0930;230 ;[illegible]         ;WELCH, MARTIN P;BA2
COMM 020916     OPR DEFENDANT/PETITIONER FOR POST CONVICTION RELIEF HEARD

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12/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD B DIS C 060399

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EVENT DATE    CLER PART TIME ROOM REAS / EVENT COMMENT
COMM 020916   CPR MEMORANDUM AND OPINION TO BE FILED: (FILE IN CHAMBERS)
COMM 071316   CMN CERT HEAR; P17; 07/29/16: CMN
COMM 071316   CPR CERT HEAR; P17; 08/09/16: CPR
COMM 080116   CPR MOTION TO SUPPLEMENT SECOND
COMM 080116   CPR MOTION TO SUPPLEMENT SECOND: CC-JUDGE JONES
SCHD 063016   CMN 001 MD01 2 0900         (BENF:20160606)ACTV FOR FURTHER PROC
COMM 063016   CPR DATE SIGNED 6/30/16. ORDERED 6/30/16, MEMORANDUM OPINION II
COMM 063016   CPR AND ORDER: ORDERED THAT THE RECORD, WHICH HAS BEEN
COMM 063016   CPR SUPPLEMENTED WITH ASIA MCCLAIN'S JANUARY 13, 2015 AFFIDAVIT
COMM 063016   CPR AND HER SUBSEQUENT TESTIMONY , SHALL BE RE-TRANSMITTED TO
COMM 063016   CPR THE MARYLAND COURT OF SPECIAL APPEALS FOR FURTHER
COMM 063016   CPR PROCEEDINGS; FURTHER ORDERED THAT THE PETITION FOR POST
COMM 063016   CPR CONVICTION RELIEF AS TO TRIAL COUNSEL'S ALLEGED INEFFECTIVE
COMM 063016   CPR ASSISTANCE FOR THE FAILURE TO CONTACT A POTENTIAL ALIBI
COMM 063016   CPR WITNESS IS HEREBY DENIED; FURTHER ORDERED THAT THE PETITION
COMM 063016   CPR FOR POST CONVICTION RELIEF AS TO ALLEGED PROSECUTORIAL
COMM 063016   CPR MISCONDUCT OF WITHHOLDING POTENTIALLY EXCULPATORY EVIDENCE
COMM 063016   CPR RELATED TO THE RELIABILITY OF CELL TOWER LOCATION EVIDENCE
COMM 063016   CPR IS HEREBY DENIED; FURTHER ORDERED THAT THE POST CONVICTION
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12:35:12 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                      CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                     920324  CCO B DCM C 06Q5A8
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 063016   CPE RELIEF AS TO TRIAL COUNSEL'S ALLEGED INEFFECTIVE ASSISTANCE
COMM 063016   CPE FOR THE FAILURE TO CROSS EXAMINE THE STATE'S CELL TOWER
COMM 063016   CPE EXPERT ABOUT THE RELIABILITY OF CELL TOWER LOCATION EVIDENCE
COMM 063016   CPE IS HEREBY GRANTED; FURTHER ORDERED THAT PETITIONER'S
COMM 063016   CPE CONVICTIONS IN THE ABOVE-CAPTIONED CASE WITH CASE NOS.
COMM 063016   CPE 199103042-046 ARE VACATED; AND IT IS FURTHER ORDERED
COMM 063016   CPE THAT PETITIONER'S REQUEST FOR A NEW TRIAL IS HEREBY
COMM 063016   CPE GRANTED PER JUDGE WELCH.
COMM 063016   CPE CHAMBERS SENT COPIES OF THIS ORDER
COMM 071216   172 CSET PART; 9; 08/19/16; 172 (NO ACTION LIST/7-8-16 - TO
COMM 071816   172     RECEIVE ASSIGNED OPEN TRIAL DATE)
COMM 072116   CSC NOTICE OF INTENT TO FILE APPLICATION FOR LEAVE TO APPEAL
COMM 072116   CSJ AND REQUEST TO STAY ORDER GRANTING POST CONVICTION
COMM 072116   CSJ RELIEF FILED BY ASA E. [illegible]. CC: WELCH, J.
ACRD 072216   CSA COA;NO#25;L 0909        ;VSUC;20000223/ACTV FOR FURTHER PROC
APPL 080116   CSU APPL;APPEAL TO COURT SPECIAL APPEALS FILED
COMM 080116   CSU APPLICATION FOR LEAVE TO APPEAL ON THE POST CONVICTION'S
COMM 080116   CSU ORDER VACATING THE CONVICTIONS & GRANTING FOR A NEW TRIAL
COMM 080116   CSU WAS FLD. FOR THIRUVENDRAN VIGNARAJAH, DEPUTY ATTY. GENERAL

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:21
 CASE 199103042 ST C BYRD, ADNAN                   928336  COD N DCN C C40399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 080116   C80 DUE TO TRANSMIT ON 08-31-16.********ASSIGNED TO LAW*******
COMM 080216   C80 A CORRECTED COPY OF THE APPLICATION FOR LEAVE TO APPEAL WAS
COMM 080216   C80 FLD. PER THIRUVENDRAN VIGNARAJAH, DEPUTY ATTY. GENERAL
COMM 080316   88P DATE STAMPED 08/03/16 AND ORDERED 08/02/16 UPON
COMM 080316   88P CONSIDERATION OF THE RESPONDENT'S NOTICE OF INTENT TO FILE
COMM 080316   88P APPLICATION FOR LEAVE TO APPEAL AND REQUEST TO STAY ORDER
COMM 080316   88P GRANTING POST-CONVICTION RELIEF PURSUANT TO SECTION 7-109(B)
COMM 080316   88P OF THE CRIMINAL PROCEDURE ARTICLE OF THE MARYLAND CODE, AND
COMM 080316   88P NO RESPONSE IN OPPOSITION HAVING BEEN FILED BY THE
COMM 080316   88P PETITIONER, IT IS THIS 2ND DAY OF AUGUST, 2016 BY THE
COMM 080316   88P CIRCUIT COURT FOR BALTIMORE CITY, ORDERED THAT THE
COMM 080316   88P RESPONDENT'S REQUEST TO STAY ORDER GRANTING POST-CONVICTION
COMM 080316   88P RELIEF IS GRANTED PER JUDGE MARTIN WELCH (CC: FILE,
COMM 080316   88P HONORABLE W. MICHAEL PETERSON, ASF AND OAG)
COMM 080416   C50 STATE'S EXHIBITS 4,5,6, (POSTERBOARDS) WAS SENT TO STE FLR.
COMM 081116   C80 RESPONDENT ADNAN SYED'S CONDITIONAL APPLICATION FOR LEAVE
COMM 081116   C80 TO CROSS APPEAL FLD. PER C. JUSTIN BROWN, LLC CHECK #1644
COMM 081116   C80 IN THE AMOUNT OF $121.00. DUE TO TRANSMIT 09-12-16
COMM 081116   C80 ************************ASSIGNED TO LAW*********************

NEXT PAGE                                F/M                          PAGE 039
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12|25|13 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:44
 CASE 199103042 ST C SYED, ADNAN                    920724  CDO R DCN C 060339
EVENT DATE   OPER PART TIME ROOM JUDG / EVENT COMMENT
COMM 081116   CSJ MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY W.
COMM 081116   CSJ DAVID MAXWELL FILED CC: PETERS, J. CHECK # 1645
COMM 081116   CSJ MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COMM 081116   CSJ KATHRYN M. ALI FILED CC: PETERS, J. CHECK #1645
COMM 081116   CSJ MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY JAMES
COMM 081116   CSJ W. CLAYTON FILED CC: PETERS, J. CHECK #1645
COMM 081116   CSJ IN REGARD TO MOTIONS FOR SPECIAL ADMISSION OF OUT-OF-STATE
COMM 081116   CSJ ATTORNEY, A.D. & CISA SAID THEY MUST BE OF RECORD AT CIRCUIT
COMM 081116   CSJ TO APPEAR AT CORE
COMM 081516   SCY THIS DAY AND ORDERED 8/15/16, THAT THE MOTION FOR SPECIAL
COMM 081516   SCY ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT W.
COMM 081516   SCY KATHRYN M. ALI, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMM 081516   SCY THE PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMM 081516   SCY TO RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMM 081516   SCY MD., DAVID MAXWELL, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMM 081516   SCY SHALL BE SUBJECT TO THE MD LAWYERS RULES OF PROFESSIONAL
COMM 081516   SCY CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMM 081516   SCY WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMM 081516   SCY WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE

MORE PAGE                                   Y/N                   PAGE 009
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17:39:13 Wednesday, November 30, 2022

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11/30/22 CRIMINAL COURT OF BALTIMORE                        CASE INQUIRY 17:34
 CASE 199103042 ST V SYED, ADNAN                    929334  CCO # DCM C 060955
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMX 081516   SCY LATTER'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMX 081516   SCY ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMX 081516   SCY COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMX 081516   SCY ADMINISTRATOR.  PETERS, J (COPIES SENT FROM CHAMBERS) (COPY
COMX 081516   SCY OF ORDER SENT TO COURT ADMINISTRATOR)
COMX 081516   SCY DATE STAMPED & DOCKETED 8/15/16. THAT THE MOTION FOR SPECIAL
COMX 081516   SCY ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT
COMX 081516   SCY JAMES W. CLAYTON, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMX 081516   SCY THE PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMX 081516 . SCY TO RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMX 081516   SCY MD.  JAMES W. CLAYTON, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMX 081516   SCY SHALL BE SUBJECT TO THE MD LAWYERS' RULES OF PROFESSIONAL
COMX 081516   SCY CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMX 081516   SCY WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMX 081516   SCY WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE
COMX 081616   SCY LATTER'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMX 081616   SCY ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMX 081516   SCY COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMX 081516   SCY ADMINISTRATOR.  PETERS, J (COPIES SENT FROM CHAMBERS) (COPY

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12:25:14 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                    528334  COD N DCM C 960195
EVENT DATE   CODE PART TIME ROOM JUDG / EVENT COMMENT
COMM 081516   SCT OF ORDER SENT TO COURT ADMINISTRATOR;
COMM 081516   SCT DATE STAMPED & ORDERED 8/15/16, THAT THE MOTION FOR SPECIAL
COMM 081516   SCT ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT M.
COMM 081516   SCT DAVID MAXWELL, ESQ., IS SPECIALLY ADMITTED TO REPRESENT THE
COMM 081516   SCT PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMM 081516   SCT TO RULE 15 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMM 081516   SCT MD.  SAIDUDDIN M. ALI, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMM 081516   SCT SHALL BE SUBJECT TO THE MD LAWYERS RULES OF PROFESSIONAL
COMM 081516   SCT CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMM 081516   SCT WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMM 081516   SCT WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE
COMM 081516   SCT ATTY'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMM 081516   SCT ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMM 081516   SCT COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMM 081516   SCT ADMINISTRATOR.  PETERS, J (COPIES SENT FROM CHAMBERS) (COPY
COMM 081516   SCT OF ORDER SENT TO COURT ADMINISTRATOR)
COMM 081716   [illegible] CASE REMOVED FROM [illegible] PER ORDER BY [illegible] J. WELCH
HEAR 081916   [illegible]
[illegible]   [illegible] CASE SET IN ERROR; NO FILE IN COURT

NEXT PAGE                                     A/N                     PAGE 041
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  13:24
 CASE 199103042 ST C SYED, ADNAN                   928334  COD K DOB C [illegible]
EVENT DATE   OPER PART TIME PRCS REAS / EVENT COMMENT
COSA 082316   CSD CONDITIONAL APPLICATION FOR LIMITED REMAND FLD PER
COSA 082316   CSD THIRUVENDRAN VIGNARAJAH, DEPUTY ATTORNEY GENERAL.
COSA 083116   CSD ORIGINAL PAPERS FORWARDED TO COSA VIA FED EX TRACKING #8104-
COSA 083116   CSD 6426-9535. (7) BINDERS, (8) ENVELOPES WITH EXHIBITS, 5
COSA 083116   CSD (35) TRANSCRIPTS.
COSA 083116   CSD SCOTT TO CARLOS [illegible] AT COSA [illegible] OF THE FED EX
COSA 083116   CSD TRACKING NUMBER SHIPMENT.
COSA 083116   CSD SC FILES (3), (5) ORIGINAL FILES, & (4) BINDERS ARE IN THE
COSA 083116   CSD APPEALS SECTION.
COSA 092216   CSD TRANSCRIPT OF RECORD RECEIPT REC'D FROM COSA.
COSA 100416   CSD STATE'S CONSOLIDATED REPLY FLD. PER THIRUVENDRAN VIGNARAJAH,
COSA 100416   CSD DEPUTY ATTORNEY GENERAL. WAS SENT TO COSA TO ADD TO THE
COSA 100416   CSD RECORD.
COSA 102416   SCY MOTION FOR RELEASE PENDING APPEAL FLD
COSA 102516   SCB DEF'S MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COSA 102516   SCB [illegible] E. [illegible] FLD; CC: JUDGE PETERS
COSA 102516   SCB DEF'S MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COSA 102516   SCB [illegible] E. [illegible] FLD, CC: JUDGE PETERS
COSA 102516   CSD MOTION FOR RELEASE PENDING APPEAL WAS PICKED UP BY THE LAW
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11/30/22  CRIMINAL COURT OF BALTIMORE                    CASE INQUIRY  12:?4
 CASE 199103042 97 C SYED, ADNAN                 923234  COD N DCN C 040399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 102516   C8D CLERK, BAILIFF AND TAKEN TO JUDGE WELCH.
COMM 110216   8CY DATE STAMPED 10/31/16, & ORDERED 10/28/16, THAT THE MOTION
COMM 110216   8CY FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTY IS GRANTED. ATTY
COMM 110216   8CY SAMANTHA C. SPIRO, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMM 110216   8CY THE DEFT IN THE ABOVE-CAPTIONED CASE.  (SEE ORDER) PETERS, J
COMM 110216   8CY (CC: COPIES SENT FROM CHAMBERS; (CC: COURT ADMINISTRATOR)
COMM 110716   8CY STATE'S RESPONSE TO MOTION FOR RELEASE
COMM 110916   C30 A COPY OF THE MOTION WAS HAND DELIVERED TO JUDGE WELCH.
COMM 111016   P30 ORIGINAL MOTION FOR RELEASE PENDING APPEAL WAS HAND
COMM 111016   C30 DELIVERED TO FRONT OFFICE.
COMM 111616   CAH SYED'S REPLY IN SUPPORT OF MOTION FOR PRETRIAL RELEASE
COMM 111816   CAH HAND DELIVERED TO JUDGE WELCH
COMM 122816   5CY MEMORANDUM OPINION MOTION FOR RELEASE PENDING APPEAL
COMM 122816   5CY DATE STAMPED & ORDERED  12/28/16, UPON CONSIDERATION OF
COMM 122816   5CY PETITIONER'S MOTION FOR PENDING APPEAL, THE STATE'S
COMM 122816   5CY RESPONSE TO MOTION FOR RELEASE, AND SYED'S REPLY IN
COMM 122816   5CY SUPPORT OF MOTION FOR PRETRIAL RELEASE THERETO, AND FOR
COMM 122816   5CY THE REASONS SET FORTH IN THE MEMORANDUM OPINION FOR THE
COMM 122816   5CY ABOVE CAPTIONED CASE, IT IS ORDERED THAT PETITIONER'S

NEXT PAGE                              F/M                         PAGE 043
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                        CASE INQUIRY  12:14
 CASE 199103042 ST C SYED, ADNAN                    928334  CCD N DOB C 080599
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
CMMN 122816    SCY MOTION FOR RELEASE PENDING APPEAL IS HEREBY DENIED.
CMMN 122816    SCY WELCH, J (CC: ALL PARTIES)
CMMN 012317    CSO ORDER: UPON CONSIDERATION OF THE STATE'S APPLICATION FOR
CMMN 012317    CSO LEAVE TO APPEAL NO. 1396, SEPT. TERM 2015, ADNAN SYED'S
CMMN 012317    CSO CONDITIONAL APPLICATION FOR LEAVE TO CROSS APPEAL, AND THE
CMMN 012317    CSO STATE'S CONDITIONAL APPLICATION FOR LIMITED REMAND, IT IS
CMMN 012317    CSO THIS 18TH DAY OF JANUARY, 2017, BY THE COURT OF SPECIAL
CMMN 012317    CSO APPEALS, ORDERED THAT THE ABOVE CAPTIONED CASES BE AND
CMMN 012317    CSO HEREBY ARE CONSOLIDATED AND THE STAY ENTERED IN NO. 2519,
CMMN 012317    CSO SEPT. TERM, 2013 BE AND HEREBY IS LIFTED; AND IT IS FURTHER
CMMN 012317    CSO ORDERED THAT THE STATE'S APPLICATION FOR LEAVE TO APPEAL IN
CMMN 012317    CSO NO. 1396, SEPT. TERM, 2015 BE AND HEREBY IS GRANTED AS THE
CMMN 012317    CSO FOLLOWING ISSUES: (1) WHETHER THE POST-CONVICTION COURT
CMMN 012317    CSO ABUSED ITS DISCRETION IN REOPENING THE POST-CONVICTION
CMMN 012317    CSO PROCEEDING TO CONSIDER SYED'S CLAIM THAT HIS TRIAL COUNSEL'S
CMMN 012317    CSO FAILURE TO CHALLENGE THE RELIABILITY OF THE CELL PHONE
CMMN 012317    CSO LOCATION DATA EVIDENCE, BASED ON THE CELL PHONE NUMBER
CMMN 012317    CSO PROVIDER'S "DISCLAIMER" ABOUT THE UNRELIABILITY OF INCOMING
CMMN 012317    CSO CALLS FOR LOCATION PURPOSES, VIOLATED SYED'S SIXTH AMENDMENT
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 BY C SYED, ADNAN #26334 CON # DCM C 060399
EVENT DATE OPER PART TIME ROOM HEAR / EVENT COMMENT

COMM 012317	CSO	RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL, (2) WHETHER
COMM 012317	CSO	THE POST-CONVICTION COURT ERRED IN FINDING THAT SYED HAD NOT
COMM 012317	CSO	WAIVED HIS CLAIM REGARDING TRIAL COUNSEL'S FAILURE TO
COMM 012317	CSO	CHALLENGE THE RELIABILITY OF THE CELL PHONE LOCATION DATA
COMM 012317	CSO	FOR INCOMING CALLS BY FAILING TO RAISE IT EARLIER.
COMM 012317	CSO	(3) WHETHER THE POST-CONVICTION COURT ERRED IN FINDING THAT
COMM 012317	CSO	SYED'S TRIAL COUNSEL'S FAILURE TO CHALLENGE THE STATE'S CELL
COMM 012317	CSO	PHONE LOCATION DATA EVIDENCE, BASED ON THE CELL PHONE
COMM 012317	CSO	PROVIDER'S "DISCLAIMER", VIOLATED SYED'S SIXTH AMENDMENT
COMM 012317	CSO	RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL.
COMM 012317	CSO	IT IS FURTHER ORDERED THAT SYED'S CONDITIONAL APPLICATION
COMM 012317	CSO	FOR CROSS-APPEAL IN NO. 1396, SEPT. TERM 2016 BE AND HEREBY
COMM 012317	CSO	IS GRANTED AS TO THE FOLLOWING ISSUES: (1) WHETHER THE
COMM 012317	CSO	POST-CONVICTION COURT ERRED IN FINDING THAT SYED'S TRIAL
COMM 012317	CSO	COUNSEL FAILURE TO INVESTIGATE A POTENTIAL ALIBI WITNESS
COMM 012317	CSO	(ASIA MCCLAIN) DID VIOLATE SYED'S SIXTH AMENDMENT RIGHT TO
COMM 012317	CSO	THE EFFECTIVE ASSISTANCE OF COUNSEL. (2) WHETHER THE POST-
COMM 012317	CSO	CONVICTION COURT INCORRECTLY LIMITED ITS PREJUDICE ANALYSIS
COMM 012317	CSO	ON THE ALIBI WITNESS ISSUE TO THE EFFECT OF TRIAL COUNSEL'S

12:25:16 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928331 CSD H-SCH C 092993
EVENT DATE OPER EAST TIME BOOK NBR / EVENT COMMENT
COMM 012317 CSD THE STATE'S CROSS-APPELLEE BRIEF SHALL BE FILED ON OR BEFORE
COMM 012317 CSD APRIL 24, 2017 PER PETER B. KRAUSER, CHIEF JUDGE.
COMM 012317 CSD TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02 04-16,
COMM 012317 CSD 02-05-16,02-09-16,(4) SEALED ENVELOPE DATED 02-08-16,
COMM 012317 CSD 02-09-16 TRANSCRIBED BY ACCUSCRIBES TRANSCRIPTION SVC.
COMM 012717 CSD IN THE AMOUNT OF $4,225.00.
COMM 012717 CSD ORDER TO SUPPLEMENT, COURT EXHIBITS, (1) SEALED ENVELOPE
COMM 012717 CSD WITH THE DATE OF 02-08-16, & (6) TRANSCRIPTS WAS SENT TO
COMM 012717 CSD COSA VIA FED EX TRACKING# 4826-0426-9946
COMM 012717 BCY CASE SIGNED & ORDERED 1/26/17. THE COURT HAVING CONCLUDED
COMM 012717 BCY THAT A PORTION OF A HEARING IN THIS ACTION MUST BE SEALED,
COMM 012717 BCY IT IS ORDERED THAT THE RECORD OF PROCEEDINGS IN THIS ACTION
COMM 012717 BCY ON FEBRUARY 8, 2016, COMMENCING AT 4:35 P.M. AND CONTINUING
COMM 012717 BCY UNTIL 4:45 P.M. SHALL BE SEALED, AND SUBJECT TO ACCESS BY
COMM 012717 BCY ANY PERSON UNTIL FURTHER ORDER OF COURT. WELCH, J (CC:
COMM 012717 BCY ATTORNEY'S OF RECORD & COURT REPORTER)
COMM 012717 CSD APPLICATION FOR LEAVE TO APPEAL DENIAL OF MOTION FOR RELEASE
COMM 012717 CSD PENDING APPEAL FLD. REC. ATTY. C. JUSTIN BROWN OF BROWN &
COMM 012717 CSD NIETO, LLC CHECK #1220 IN THE AMOUNT OF $121.00. REC TO

12:25:16 Wednesday, November 30, 2022

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11/30/22  CRIMINAL COURT OF BALTIMORE                       CASE INQUIRY  12:24
 CASE 159103042 ST C BYRD, ADNAN                  928394  DOC N DCM C 060599
EVENT DATE   OPER PART TIME ROOM JUDGE / EVENT COMMENT
COMM 012717   CSD THE STATE'S CROSS-APPLICATION SHALL BE FILED ON OR BEFORE
COMM 012717   CSD APRIL 26, 2017 PER PETER B. KRAUSER, CHIEF JUDGE.
COMM 012717   CSD TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02-04-16,
COMM 012717   CSD 02-05-16,02-08-16,(1) SEALED ENVELOPE DATED 02-08-16,
COMM 012717   CSD 02-09-16 TRANSCRIBED BY ACCUSCRIBES TRANSCRIPTION SVC.
COMM 012717   CSD IN THE AMOUNT OF $8,220.00.
COMM 012717   CSD ORDER TO SUPPLEMENT, DOCKET ENTRIES, (1) SEALED ENVELOPE
COMM 012717   CSD WITH THE DATE OF 02-08-16, & (8) TRANSCRIPTS WAS SENT TO
COMM 012717   CSD COSA VIA FED EX TRACKING #8105-0426-4946
COMM 012717   SCT UPON REVIEW & CONSIDERED 1/25/17, THE COURT HAVING CONCLUDED
COMM 012717   SCT THAT A PORTION OF A HEARING IN THIS ACTION MUST BE SEALED,
COMM 012717   SCT IT IS ORDERED THAT THE RECORD OF PROCEEDINGS IN THIS ACTION
COMM 012717   SCT ON FEBRUARY 8, 2016, COMMENCING AT 4:39 P.M. AND CONTINUING
COMM 012717   SCT UNTIL 4:49 P.M. SHALL BE SEALED, AND SUBJECT TO ACCESS BY
COMM 012717   SCT ANY PERSON UNTIL FURTHER ORDER OF COURT.  WELCH, J (CC:
COMM 012717   SCT APPELLANT'S CO SUITE & COURT REPORTER)
COMM 012717   CSD APPLICATION FOR LEAVE TO APPEAL DENIAL OF MOTION FOR RELEASE
COMM 012717   CSD PENDING APPEAL FLD. PER. ATTY. C. JUSTIN BROWN OF BROWN &
COMM 012717   CSD NIETO, LLC CHECK 11270 IN THE AMOUNT OF $130.00, DUE TO

NEXT PAGE                             P/N                          PAGE 067
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12:25:16 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SMITH, AHMAD 988556 DOB [illegible]
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 012717 CS0 TRANSMIT 03-28-17,**********ASSIGNED TO [illegible]*********
COMM 020117 CS0 A COPY OF THE APPLICATION FOR LEAVE TO APPEAL DENIAL OF
COMM 020117 CS0 MOTION FOR RELEASE AND A COPY OF THE ORDER SENT FROM COSA
COMM 020117 CS0 DATED 01-23-17 WAS HAND DELIVERED TO THE FRONT OFFICE.
COMM 020717 CS0 TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02-04-16,02-05-16
COMM 020717 CS0 02-08-16,02-09-16 AND (1) SEALED ENVELOPE WITH A TRANSCRIPT
COMM 020717 CS0 WAS TRANSCRIBED BY AUTHORIZED TRANSCRIPTION SVC.
COMM 020417 CS0 ORDER TO SUPPLEMENT, DOCKET ENTRIES, (1) SEALED ENVELOPE
COMM 030417 CS0 WITH AND TRANSCRIPT & (5) TRANSCRIPTS WAS SENT TO COSA VIA
COMM 030417 CS0 FED EX TRACKING #8122-8411 0647.
COMM 030617 CS0 TRANSCRIPT OF RECORD REC'D FROM COSA.
COMM 032617 CS0 ORIGINAL PAPERS FORWARDED TO COSA VIA FED EX TRACKING #8123-
COMM 032617 CS0 0635-3307; (1) BINDER, NO EXHIBITS, AND NO TRANSCRIPTS.
COMM 060617 CSC MANDATE; COSA 02553, SEPTEMBER TERM, 2016
COMM 060617 CSC OPINION: APPLICATION FOR LEAVE TO APPEAL DENIED
COMM 060617 CSC MANDATE ISSUED: MAY 25, 2017
COMM 060617 CSC COURTESY COPY OF COSA MANDATE ;ACTION DATE= 20170721
COMM 060617 CSC COPY HAS BEEN SENT TO ALL PARTIES PER COURT ORDER
ADSN 080817 CS0 APPL,APPEAL RETURNED - APPLICATION DENIED

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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 97 C SYED, ADNAN 928334 COD 0 DCN C 040399

EVENT DATE	OPER PART LINE ROOM REAS / EVENT COMMENT
COMM 080817	C90 TO FILE A NUMBER IS IN THE APPEALS SECTION FOR PENDING
COMM 080817	C90 APPEAL.
APPL 080817	C90 APPL/APPEAL TO COURT SPECIAL APPEALS FILED
COMM 080817	C90 APPEALS STILL PENDING DATED 01-27-16,08-01-16,08-22-16.
COMM 050418	CDC MANDATE: COSA 01396, SEPTEMBER TERM, 2016
COMM 050418	CDC OPINION: JUDGMENT AFFIRMED. CASE REMANDED FOR NEW TRIAL ON
COMM 050418	CDC ALL CHARGES.
COMM 050418	CDC MANDATE ISSUED: 4-30-18
COMM 081718	C90 RECEIPT IS HEREBY ACKNOWLEDGED OF A PETITION FOR WRIT OF
COMM 081718	C90 CERTIORARI FILED IN THE ABOVE ENTITLED CASE PER BESSIE M.
COMM 081718	C90 DECKER, CLERK COURT OF APPEALS.
COMM 053018	100 MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COMM 053018	100 CATHERINE E. STETSON FILED CC:JUDGE WELCH
COMM 060418	CPR CASE HEARD AND ORDERED 6/1/18 THAT THE "MOTION FOR SPECIAL
COMM 060418	CPR ADMISSION OF OUT-OF-STATE ATTORNEY CATHERINE E STETSON" IS
COMM 060418	CPR "GRANTED",AND IT IS FURTHER ORDERED THAT CATHERINE E.STETSON
COMM 060418	CPR IS SPECIALLY ADMITTED FOR THE LIMITED PURPOSE OF APPEARING
COMM 060418	CPR AS CO-COUNSEL FOR PETITIONER IN THE ABOVE-CAPTIONED CASE
COMM 060418	CPR COPY SENT TO STATE COURT ADMINISTRATOR

12:25:17 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                       CASE INQUIRY  12:24
 CASE 199103042 ST & STEEL, ADNAN                    929534  DOU K LCN C 060349
EVENT DATE    CTRM PART TIME ROOM STAB / EVENT COMMENT
COMM 071818   CDC ORDER: IT IS THIS 12TH DAY OF JULY, 2018 ORDERED, BY THE
COMM 071818   CDC COURT OF APPEALS OF MARYLAND, THAT THE PETITION AND THE
COMM 071818   CDC CONDITIONAL CROSS-PETITION BE, AND THEY ARE HEREBY, GRANTED,
COMM 071818   CDC AND A WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS
COMM 071818   CDC SHALL ISSUE; AND IT IS FURTHER ORDERED, THAT SAID CASE SHALL
COMM 071818   CDC BE TRANSFERRED TO THE REGULAR DOCKET AS NO. 24, SEPTEMBER
COMM 071818   CDC TERM, 2018, AND IT IS FURTHER ORDERED, THAT THE COUNSEL
COMM 071818   CDC SHALL FILE BRIEFS AND PRINTED RECORD EXTRACT IN ACCORDANCE
COMM 071818   CDC WITH MD. RULES 8-501 AND 8-504, PETITIONER'S BRIEF AND
COMM 071818   CDC RECORD EXTRACT TO BE FILED ON OR BEFORE AUGUST 24, 2018;
COMM 071818   CDC RESPONDENT/CROSS-PETITIONER'S BRIEF TO BE FILED ON OR
COMM 071818   CDC BEFORE SEPTEMBER 20, 2018; CROSS-RESPONDENT'S BRIEF TO BE
COMM 071818   CDC FILED ON OR BEFORE OCTOBER 22, 2018; AND IT IS FURTHER
COMM 071818   CDC ORDERED, THAT THIS CASE SHALL BE SET FOR ARGUMENT DURING THE
COMM 071818   CDC DECEMBER SESSION OF COURT. PER CHIEF JUDGE MARY ELLEN
COMM 071818   CDC BARBERA.
ARTK 053019   C90 PCAD/APPLICATION DENIED - POST CONVICTION
COMM 053019   C90 MANDATE: COURT OF APPEALS NO. 24, SEPT. TERM 2018
COMM 053019   C90 OPINION: JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED.

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12:25:18 Wednesday, November 30, 2022

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11/30/22. CRIMINAL COURT OF BALTIMORE                      CASE INQUIRY 12:24
 CASE 199103042 01 C SYED, ADNAN                [illegible] COD E COM C 360399
SYSM DATE   CTRM PART TIME ROOM RENB / EVENT COMMENT
COMM 061619   CSU CASE REMANDED TO THAT COURT WITH DIRECTIONS TO REVERSE THE
COMM 061619   CSU JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY WHICH
COMM 061619   CSU GRANTED RESPONDENT A NEW TRIAL.
COMM 061619   CSU MANDATE ISSUED: 03-08-19
COMM 061619   CSU ORIGINAL FILE, (4) PC FILES, (13) SLEEVES, (1) RED FOLDER
COMM 061619   CSU DOCKET ENTRIES, (1) SEALED ENVELOPE WITH JURY LIST, (8)
COMM 061619   CSU ENVELOPES WITH EXHIBITS, AND (46) TRANSCRIPTS WAS SENT TO
COMM 061619   CSU FILE ROOM.
COMM 062819   SCY COST JT ; [illegible] 02/25/03; [illegible]
COMM 062819   SCY COST JT ; [illegible] 04/06/03; [illegible]
COMM 062819   SCY CASE CLOSED - ALL COUNTS DISPOSED [illegible]
COMM 031022   CPE FILED [illegible] - [illegible]            , [illegible]
FILE 031022   CPE FILED APD - SUTER, ERICA J                 ; [illegible]
COMM 031022   CPE ENTRY OF APPEARANCE FILED
FILED 031022  CPE POST CONVICTION FILED
COMM 031022   CPE JOINT PETITION FOR POST CONVICTION DNA TESTING FILED
COMM 031022   CPE [illegible]
COMM 031522   CPE REQUESTING ORIGINAL FILES FROM THE FILE ROOM.
COMM 031522   CPE DATE GRANTED 3/14/22. ORDERED 3/14/22, ORDER FOR POST
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SMITH, [illegible]                928354  COD N DCN C 060384
EVENT DATE    OPER NAME [illegible] / EVENT COMMENT
COMM 031522   CFE CONVICTION AND [illegible] THE BALTIMORE POLICE DEPARTMENT
COMM 031522   CFE SHALL, WITHIN FIFTEEN(15)DAYS OF THE ENTRY OF THIS ORDER
COMM 031522   CFE SEND BY OVERNIGHT MAIL ALL ITEMS ASSOCIATED WITH PROPERTY
COMM 031522   CFE NOS 99004666, 9908996,99004672, AND 99004674 AND
COMM 031522   CFE COLLECTED PURSUANT TO CC#9908003801 TO FORENSIC ANALYTICAL
COMM 031522   CFE CRIME LAB(FACL)3777 DEPOT RD. STE. 403, HAYWARD, CA 94545-
COMM 031522   CFE 2761. THE STATE SHALL TAKE ALL REASONABLE STEPS TO PRESERVE
COMM 031522   CFE THE CHAIN OF CUSTODY IN CONNECTION WITH TRANSMITTING THE
COMM 031522   CFE EVIDENCE TO FACL AND ALL DOCUMENTATION RELATING TO THE CHAIN
COMM 031522   CFE OF CUSTODY SHALL BE PROVIDED TO PETITIONER. PETITIONER'S
COMM 031522   CFE COUNSEL SHALL ASSIST IN THE COMPLETION OF THE LABORATORY
COMM 031522   CFE SUBMISSION FORM, THE COURTS PRE-APPROVAL FORM, AND ANY OTHER
COMM 031522   CFE DOCUMENTATION NEEDED IN CONNECTION WITH THE TRANSPORTING AND
COMM 031522   CFE TESTING OF THIS EVIDENCE. THE SPECIFIC DNA TESTING
COMM 031522   CFE METHODOLOGY TO BE UTILIZED SHALL BE DETERMINED BY
COMM 031522   CFE PETITIONER'S COUNSEL IN CONSULTATION WITH FACL AFTER
COMM 031522   CFE PRELIMINARY EXAMINATION OF THE EVIDENCE. PETITIONER'S
COMM 031522   CFE COUNSEL SHALL CONSULT WITH THE STATE REGARDING TESTING
COMM 031522   CFE METHODOLOGY BEFORE CONDUCTING TESTING. THE DNA SHALL BE DONE
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12:25:14 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 BT C SYED, ADNAN                 529334  COD M DOB C 060399
EVENT DATE    OPER PART TIME ROOM RESP / EVENT COMMENT
COMM 031522   CFH IN ACCORDANCE WITH TECHNIQUES AND TESTING THAT IS GENERALLY
COMM 031522   CFH ACCEPTED IN THIS SCIENTIFIC COMMUNITY FOR FORENSIC CRIMINAL
COMM 031522   CFH IDENTIFICATION. FACL SHALL TAKE ALL REASONABLE ACTIONS TO
COMM 031522   CFH PRESERVE A SUFFICIENT PORTION A SUFFICIENT PORTION OF EACH
COMM 031522   CFH UNCONSUMED SAMPLE IT RECEIVES FOR FUTURE CONFIRMATORY
COMM 031522   CFH TESTING. FACL WILL ENGAGE IN CONSUMPTIVE TESTING ONLY, IF
COMM 031522   CFH IN THE OPINION OF THE ANALYST, IT IS NECESSARY TO DO SO IN
COMM 031522   CFH ORDER TO OBTAIN A DNA PROFILE, AND ONLY AFTER CONSULTING
COMM 031522   CFH WITH PETITIONER'S COUNSEL, ESQ., IN TURN, SHALL CONSULT WITH
COMM 031522   CFH THE STATE REGARDING PRESUMPTIVE TESTING. FACL SHALL PROVIDE
COMM 031522   CFH TO THE STATE OF MARYLAND AND PETITIONER'S COUNSEL A FULL AND
COMM 031522   CFH COMPLETE COPY OF ALL REPORTS, RESULTS, CASE NOTES AND DATA
COMM 031522   CFH GENERATED IN CONNECTION WITH THE DNA TESTING OF ALL SAMPLES.
COMM 031522   CFH THE TESTING RESULTS SHALL BE MADE AVAILABLE FOR ALL FUTURE
COMM 031522   CFH USE IN ANY PROCEEDING OR INVESTIGATION RELATING TO ANY OTHER
COMM 031522   CFH INDIVIDUALS SUSPECTED OF INVOLVEMENT IN THE OFFENSE AT ISSUE
COMM 031522   CFH IN THE CAPTIONED CASE. THE COSTS OF TRANSPORTING THIS
COMM 031522   CFH EVIDENCE BY OVERNIGHT MAIL AND ALL OTHER COSTS ASSOCIATED
COMM 031522   CFH WITH THE TESTING OF THE EVIDENCE SHALL BE BORNE BY

PRINT SCREEN                              P/9                     PAGE 053
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:21
CASE 199103042 ST C SYED, ADNAN 528334 COD E DSN C 060399

EVENT DATE	OPER PART FILE ROOM REAS / EVENT COMMENT
COMM 031522	CFN PETITIONER, ADNAN SYED FOR JUDGE PHINN.
COMM 031522	CFN MAILED COPIES OF THIS ORDER TO ALL PARTIES
COMM 032521	CFN STATEMENT TO SUPPLEMENT THE RECORD FILED BY THE ASSISTANT
COMM 032521	CFN ATTORNEY GENERAL FILED AND FORWARDED TO JUDGE PHINN.
COMM 032822	SBI LETTER TO JUDGE PHINN FROM ERICA SUTER RE: DNA TESTING FILED
COMM 091422	BBI DEFENSE RESPONSE TO STATE'S MOTION TO VACATE JUDGMENT
COMM 091422	SBI FILED BY ERICA SUTER CC: JUDGE MELISSA MIDDLETON
COMM 091422	BGI MOTION TO VACATE JUDGMENT, CC: JUDGE M.MIDDLETON.
COMM 091922	CFB ORIGINAL FILES(2) AND PC FILE DELIVERED TO JUDGE PHINN.
COMM 091922	SHL DATE STAMPED 09/19/22, ORDER OF COURT DATED 09/17/22, 1.
COMM 091922	SHL THE HEARING IN THE ABOVE CAPTIONED CASE IS SCHEDULED TO BE
COMM 091922	SHL CONDUCTED IN COURTROOM 666 ("THE COURTROOM"), OF THE
COMM 091922	SHL CUMMINGS COURTHOUSE, LOCATED AT 111 N. CALVERT ST.,
COMM 091922	SHL BALTIMORE, MD 21202 ("THE COURTHOUSE"). THE PRESIDING TRIAL
COMM 091922	SHL JUDGE SHALL BE THE HONORABLE MELISSA M. PHINN. 2. PUBLIC
COMM 091922	SHL INFORMATION OFFICER: OFFICE OF GOVERNMENTAL RELATIONS AND
COMM 091922	SHL PUBLIC AFFAIRS, STATE OF MARYLAND JUDICIARY, SHALL BE
COMM 091922	SHL DESIGNATED AS THE COURT'S MEDIA LIAISON FOR PURPOSES OF THIS
COMM 091922	SHL ORDER AND CAN BE REACHED AT 410-260-1488, EMAIL

12/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 37 C SYED, ADNAN 028334 COB E DEF C C0399

EVENT DATE	OPER TYPE TIME ROOM REAS / EVENT COMMENT
COMM 091922	SWL BRADLEY.TANNER@MDCOURTS.GOV; TERRI.CHARLES@MDCOURTS.GOV.
COMM 091922	SWL BRADLEY TANNER CAN BE REACHED DIRECTLY AT: 410-213-7418. 3.
COMM 091922	SWL ALL MEDIA INQUIRIES SHALL BE DIRECTED TO THE COURT'S MEDIA
COMM 091922	SWL LIAISON. 4. ALL PERSONS WITHIN THE COURTHOUSE SHALL REMAIN
COMM 091922	SWL SUBJECT TO THE OCCUPANCY LIMITS AND SECURITY MEASURES
COMM 091922	SWL ESTABLISHED BY SHERIFF JOHN ANDERSON, SHERIFF OF THE
COMM 091922	SWL BALTIMORE CITY SHERIFF'S OFFICE ("SHERIFF"), WHO CAN BE
COMM 091922	SWL REACHED AT 410-396-1144, EMAIL ADDRESS:
COMM 091922	SWL JOHN.ANDERSON@BALTIMORECITY.GOV, AND CHIEF FIRE MARSHALL
COMM 091922	SWL FOR BALTIMORE CITY ("FIRE MARSHALL"), WHO CAN BE REACHED AT
COMM 091922	SWL 410-396-5752, EMAIL ADDRESS: FIREMARSHAL@BALTIMORECITY.GOV.
COMM 091922	SWL 5. ALL PERSONS ENTERING THE COURTHOUSE SHALL: ACCESS TO THE
COMM 091922	SWL SECURITY PROCEDURES AS DIRECTED BY THE SHERIFF; PASS
COMM 091922	SWL THROUGH ELECTRONIC SECURITY DEVICES; SUBMIT THEIR EQUIPMENT
COMM 091922	SWL AND OTHER EFFECTS TO SEARCH PROCEDURES AT THE DISCRETION OF
COMM 091922	SWL THE SHERIFF'S DEPUTIES; AND SHOW A VALID MEDIA CREDENTIAL
COMM 091922	SWL TO SECURITY PERSONNEL UPON REQUESTED. TO: EXPEDITE ENTRY,
COMM 091922	SWL ALL PERSONS ARE REQUESTED TO REFRAIN FROM BRINGING PURSES
COMM 091922	SWL BAGS OR BACKPACKS INTO THE COURTHOUSE. 6. NO AUDIO OR VIDEO

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11/30/22  CRIMINAL COURT OF BALTIMORE                         CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  920331  CCP N DCM C 005296
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922   SNL RECORDING EQUIPMENT, INCLUDING MEDIA CAMERAS, OR
COMM 091922   SNL TRANSMITTING EQUIPMENT SHALL BE PERMITTED IN THE COURTHOUSE,
COMM 091922   SNL EXCEPT AS PROVIDED IN THIS ORDER. PURSUANT TO MD. RULE
COMM 091922   SNL 16-208, NO PERSON MAY USE AN ELECTRONIC DEVICE TO TAKE
COMM 091922   SNL SCREEN CAPTURES, SCREENSHOTS, PHOTOGRAPHS, VIDEOS, AUDIO
COMM 091922   SNL RECORDINGS OR MAKE OTHER ELECTRONIC RECORDINGS WITHIN THE
COMM 091922   SNL COURTHOUSE, AND NO PERSON MAY TRANSMIT, PUBLISH, OR
COMM 091922   SNL OTHERWISE DISSEMINATE ANY SUCH ELECTRONIC AUDIO OR VIDEO
COMM 091922   SNL RECORDING, EXCEPT AS PROVIDED IN THIS ORDER. 7. ALL
COMM 091922   SNL ELECTRONIC DEVICES, INCLUDING, BUT NOT LIMITED TO, CELL
COMM 091922   SNL PHONES, LAPTOPS, AND TABLETS MUST BE TURNED OFF (OR IN
COMM 091922   SNL SILENT OR SLEEP MODE) WHILE INSIDE THE COURTROOM, UNLESS
COMM 091922   SNL EXPRESS PERMISSION IS GIVEN BY THE COURT, OR AS PROVIDED IN
COMM 091922   SNL THIS ORDER. PURSUANT TO MD. RULE 16-208(B)(3)(A), ATTORNEYS
COMM 091922   SNL AND THEIR AGENTS REPRESENTING PARTIES IN THE PROCEEDINGS
COMM 091922   SNL MAY MAKE REASONABLE AND LAWFUL USE OF AN ELECTRONIC DEVICE
COMM 091922   SNL IN CONNECTION WITH THE PROCEEDINGS. 8. ELECTRONIC DEVICES
COMM 091922   SNL AND EQUIPMENT SOUGHT TO BE USED OR EMPLOYED BY MEMBERS OF
COMM 091922   SNL THE MEDIA MUST COMPLY WITH THE OPERATIONAL REQUIREMENTS

More: PA1=                          Y/N                    PAGE 056
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12:25:30 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:26
CASE 199103042 ST C.SYED, ADNAN 926334 COD E CRK C 060399
EVENT DATE CODE FROM TIME ROOM JUDGE / EVENT COMMENT
COMM 091922 1EL [illegible] ORDER NO. RULE 16-601, UNLESS APPROVED BY THE
COMM 091922 8EL COURT. 9. LIMITED SEATING WILL BE AVAILABLE IN THE GALLERY
COMM 091922 8EL OF THE COURTROOM, AS DETERMINED BY THE COURT, THE SHERIFF,
COMM 091922 8EL AND THE FIRE MARSHALL. THE COURT MAY APPORTION THE
COMM 091922 8EL AVAILABLE SEATING. WHERE NECESSARY, THE COURT SHALL MAKE
COMM 091922 8EL OVERFLOW SEATING ARRANGEMENTS IN ANOTHER SPACE WITHIN THE
COMM 091922 8EL COURTHOUSE, TO VIEW THE PROCEEDINGS VIA VIDEO LIVE FEED. ALL
COMM 091922 8EL PERSONS WITHIN ANY SPACE DESIGNATED FOR OVERFLOW SEATING ARE
COMM 091922 8EL SUBJECT TO THE SAME PROHIBITIONS ON ELECTRONIC AUDIO OR
COMM 091922 8EL VIDEO RECORDINGS, AND THE SAME PROHIBITIONS ON PUBLICATION
COMM 091922 8EL OF ELECTRONIC AUDIO OR VIDEO RECORDINGS, EXCEPT AS PROVIDED
COMM 091922 8EL IN THIS ORDER. COURTROOM [illegible] IS
COMM 091922 8EL DESIGNATED AS THE OVERFLOW COURTROOM. 10. THERE SHALL BE
COMM 091922 8EL LIMITED, RESERVED SEATING FOR MEMBERS OF THE MEDIA IN THE
COMM 091922 8EL COURTROOM. MEMBERS OF THE MEDIA MAY INDICATE THEIR DESIRE
COMM 091922 8EL FOR A SEAT WITHIN THE COURTROOM BY CONTACTING THE COURT'S
COMM 091922 8EL MEDIA LIAISON. THE COURT'S MEDIA LIAISON MAY ALLOCATE SEATS
COMM 091922 8EL BASED ON REQUESTS RECEIVED AND SHALL COMMUNICATE TO THE
COMM 091922 8EL SHERIFF'S OFFICE THE NAMES OF MEDIA MEMBERS ALLOTTED SEATS

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24

CASE 199103042 ST V SYED, ADNAN 928734 DOD # 02S C 090199

EVENT	DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
COMM	091922	SRL RESERVED FOR MEDIA. THE REMAINING SEATS SHALL BE MADE
COMM	091922	SRL AVAILABLE TO MEMBERS OF THE PUBLIC ON A FIRST-COME/FIRST-
COMM	091922	SRL SERVED BASIS. 11. THE SHERIFF WILL ESTABLISH PROCEDURES TO
COMM	091922	SRL GOVERN ORDERLY ENTRY TO THE COURTHOUSE AND TO THE COURTROOM
COMM	091922	SRL AND EXIT THEREFROM. ONLY THOSE MEMBERS OF THE MEDIA WHO
COMM	091922	SRL HAVE BEEN CHECKED AND POSSESS A MEDIA CREDENTIAL
COMM	091922	SRL IDENTIFICATION CARD FROM THE SHERIFF'S OFFICE SHALL BE
COMM	091922	SRL PERMITTED IN THE COURTROOM DURING THE PROCEEDINGS. PERSONS
COMM	091922.	SRL WHO LEAVE THE COURTROOM DURING THESE PROCEEDINGS SHALL NOT
COMM	091922	SRL BE READMITTED UNTIL THE NEXT RECESS, EXCEPT AS PERMITTED BY
COMM	091922	SRL THE COURT. 12. SHERIFF'S DEPUTIES MAY INSPECT ANY
COMM	091922	SRL ELECTRONIC DEVICE AT ANY TIME FOR MISUSE, AND, IF NECESSARY,
COMM	091922	SRL CONFISCATE THE DEVICE IF IT APPEARS TO BE IN USE OR
COMM	091922	SRL OPERATED IN VIOLATION OF THIS ORDER. SHERIFF'S DEPUTIES AND
COMM	091922	SRL OTHER COURT PERSONNEL ARE NOT LIABLE FOR ANY DAMAGE OR LOSS
COMM	091922	SRL OF ELECTRONIC DEVICES CONFISCATED PURSUANT TO THIS ORDER.
COMM	091922	SRL SEE MD. RULE 16-208(B)(1). AUTHORIZED MEMBERS OF THE MEDIA
COMM	091922	SRL ARE PERMITTED TO USE SUCH ELECTRONIC EQUIPMENT IN THE
COMM	091922	SRL OVERFLOW SEATING SPACES. SUCH DEVICES CANNOT BE USED FOR

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11/30/22  CRIMINAL COURT OF BALTIMORE                     CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN               920391  CDP K DOB C 060381
EVENT DATE    OPER PART TIME ROOM REAS / EVENT COMMENT
CCOM 091922   SSL AUDIO OR VIDEO RECORDING OR STILL PHOTOGRAPHY IN ANY
CCOM 091922   SSL LOCATION IN THE COURTHOUSE. 11. MEMBERS OF THE MEDIA SHALL
CCOM 091922   SSL NOT USE CELLULAR PHONES WITHIN ONE-HUNDRED (100) FEET OF
CCOM 091922   SSL THE COURTROOM DURING THE COURSE OF PROCEEDINGS. UNLESS
CCOM 091922   SSL AUTHORIZED BY THE COURT, ALL ELECTRONIC DEVICES SHALL BE
CCOM 091922   SSL TURNED OFF DURING COURT PROCEEDINGS. THE COURT'S MEDIA
CCOM 091922   SSL LIAISON SHALL BE PERMITTED TO HAVE ELECTRONIC EQUIPMENT FOR
CCOM 091922   SSL ANY IMPORTANT MESSAGES OR EMERGENCIES THAT MAY ARISE. 14.
CCOM 091922   SSL NO FOOD OR DRINK IS PERMITTED IN THE COURTROOM. THE USE OF
CCOM 091922   SSL ANY LIGHTED TOBACCO PRODUCTS OR ELECTRONIC VAPORIZERS IS
CCOM 091922   SSL STRICTLY PROHIBITED WITHIN THE COURTROOM. 15. COURT
CCOM 091922   SSL PERSONNEL SHALL NOT BE INTERVIEWED REGARDING THE ABOVE
CCOM 091922   SSL CAPTIONED MATTER OR THE PROCEEDINGS. 16. MEDIA CONFERENCES
CCOM 091922   SSL OR INTERVIEWS WITH THE COURT'S MEDIA LIAISON SHALL BE
CCOM 091922   SSL PERMITTED IN COURTROOM 509 CUMMINGS COURTHOUSE. MEMBERS OF
CCOM 091922   SSL THE MEDIA WILL BE ADVISED OF THE DESIGNATED SPACE AT THE
CCOM 091922   SSL START OF THE PROCEEDINGS BY THE COURT'S MEDIA LIAISON. 17.
CCOM 091922   SSL NO MEDIA CONFERENCES OR INTERVIEWS WITH ATTORNEYS, PARTIES,
CCOM 091922   SSL OR WITNESSES SHALL BE CONDUCTED WITHIN THE COURTHOUSE OR
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST V SYED, ADNAN 920731 CDC 1 POS C 060390
EVENT DATE OPER DEPT TIME ROOM REAS / EVENT COMMENT
COMM 091922 SGL WITHIN (50) FEET OF ANY ENTRANCE OF THE COURTHOUSE, NO
COMM 091922 SGL PERSONS MAY IMPEDE FOOT TRAFFIC ON THE SIDEWALKS IN FRONT
COMM 091922 SGL OF THE COURTHOUSE OR OBSTRUCT ACCESS TO THE COURTHOUSE. 18.
COMM 091922 SGL IF MEMBERS OF THE MEDIA BELIEVE THAT ANY ASPECT OF THIS
COMM 091922 SGL ORDER IS UNWORKABLE OR INAPPROPRIATE, THEY MAY REQUEST
COMM 091922 SGL MODIFICATION(S) ONLY IF SUCH REQUEST IS MADE IN SUFFICIENT
COMM 091922 SGL TIME IN ADVANCE OF THE PROCEEDINGS TO PERMIT THE COURT TO
COMM 091922 SGL REVIEW THE PROPOSED MODIFICATION(S). 19. ANY PERSONS FOUND
COMM 091922 SGL TO BE IN VIOLATION OF THIS ORDER SHALL BE SUBJECT TO A
COMM 091922 SGL REVOCATION OF ALL MEDIA PRIVILEGES AND, IF APPROPRIATE, TO
COMM 091922 SGL THE CONTEMPT POWERS OF THE COURT. SHERIFF'S DEPUTIES ARE
COMM 091922 SGL HEREBY AUTHORIZED TO ENFORCE COMPLIANCE WITH THIS ORDER AND
COMM 091922 SGL MAY REMOVE ANY PERSON WHO FAILS TO COMPLY WITH ANY PART OF
COMM 091922 SGL THIS ORDER. 20. NOTWITHSTANDING THIS ORDER, WHERE ANY
COMM 091922 SGL EMERGENCY CIRCUMSTANCES ARISE OR EXIST, ALL INDIVIDUALS
COMM 091922 SGL WITHIN AND AROUND THE COURTHOUSE ARE SUBJECT TO THE
COMM 091922 SGL DESIGNATIONS, INSTRUCTIONS, AND RESTRICTIONS ESTABLISHED TO
COMM 091922 SGL ADDRESS THE CIRCUMSTANCES. 21. THIS ORDER IS SUBJECT TO
COMM 091922 SGL MODIFICATION BY THE COURT AT ANY TIME. PER JUDGE A. CARRION.

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                   CASE INQUIRY  13:24
 CASE 199103042 SY C SYED, ADNAN                   026334  290 M DCM 2 380349
EVENT DATE   DESC PART TIME ROOM JUDG / EVENT COMMENT
COMM 091922   SHL (CC: ALL PARTIES) COPIES OF THE ORDER SENT FROM CHAMBERS TO
COMM 091922   SHL ALL PARTIES PER ORDER.
COMM 091922   SHL DATE STAMPED 09/19/22, ORDER OF COURT DATED 09/17/22, 1.
COMM 091922   SHL BALTIMORE CITY SHERIFF'S OFFICE DEPUTIES (SHERIFF'S
COMM 091922   SHL DEPUTIES) ASSIGNED TO COURTROOM 556 ("THE COURTROOM"), OF
COMM 091922   SHL THE CLARENCE COURTHOUSE, LOCATED AT 111 N. CALVERT STREET
COMM 091922   SHL BALTIMORE, MD 21202 ("THE COURTHOUSE"), SHALL ENSURE, IN
COMM 091922   SHL CONSULTATION WITH THE COURT, LIMITED, RESERVED SEATING IN
COMM 091922   SHL THE COURTROOM FOR AUTHORIZED MEDIA, ATTORNEYS AND LITIGANTS,
COMM 091922   SHL AS NECESSARY. THE PRESIDING TRIAL JUDGE SHALL BE THE
COMM 091922   SHL HONORABLE MELISSA M. PHINN. 2. ALL PERSONS ATTENDING THE
COMM 091922   SHL HEARING IN THIS MATTER SHALL BE SUBJECTED TO SCREENING OF
COMM 091922   SHL THEIR PERSON AND BELONGINGS AT THE ENTRANCES TO THE
COMM 091922   SHL COURTHOUSE. MEMBERS OF THE MEDIA ARE NOT EXEMPT FROM
COMM 091922   SHL SCREENING. 3. PURSUANT TO THE MEDIA PROTOCOL ORDER, THROUGH
COMM 091922   SHL ON SEPTEMBER 19, 2022, THE BALTIMORE CITY SHERIFF'S OFFICE
COMM 091922   SHL SHALL PROVIDE APPROPRIATE MEDIA CREDENTIAL IDENTIFICATION
COMM 091922   SHL CARDS TO MEMBERS OF THE MEDIA. 4. SHERIFF'S DEPUTIES SHALL
COMM 091922   SHL MONITOR THE COURTROOM AT ALL TIMES AND ANY ACCESS
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11/30/22 CIRCUIT COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST V SYED, ADNAN [illegible] COD 0 DCN C 040399
EVENT DATE OPER PART TIME JUDG ARAS / EVENT COMMENT
COMM 091922 SHL AUTHORIZED TO REMOVE ANYONE WHO VIOLATES THIS SECURITY
COMM 091922 SHL ORDER, THE MEDIA PROTOCOL ORDER DATED SEPTEMBER 11, 2022,
COMM 091922 SHL OR AT THE DIRECTION OF THE COURT. MEDIA CREDENTIAL
COMM 091922 SHL IDENTIFICATION CARDS SHALL BE REVOKED FROM MEMBERS OF THE
COMM 091922 SHL MEDIA WHO VIOLATE THESE ORDERS. ALL VIOLATORS SHALL BE
COMM 091922 SHL REFERRED TO THE COURT FOR APPROPRIATE SANCTIONS. 5.
COMM 091922 SHL SHERIFF'S DEPUTIES SHALL NOT PERMIT ANY DEMONSTRATION INSIDE
COMM 091922 SHL THE COURTHOUSE. NO ONE SHALL BE PERMITTED TO CONGREGATE
COMM 091922 SHL OUTSIDE THE COURTROOM (WITHIN FIFTY FEET OF THE ENTRANCE)
COMM 091922 SHL DURING THE COURSE OF THIS HEARING. ALL VIOLATORS SHALL BE
COMM 091922 SHL REMOVED FROM THE COURTHOUSE. 6. USE OF CELLULAR TELEPHONES
COMM 091922 SHL IS PROHIBITED WITHIN ONE-HUNDRED (100) FEET OF THE
COMM 091922 SHL COURTROOM. UNLESS AUTHORIZED BY THE COURT, ALL ELECTRONIC
COMM 091922 SHL DEVICES MUST BE TURNED OFF DURING COURT PROCEEDINGS. 7.
COMM 091922 SHL THIS SECURITY ORDER IS SUBJECT TO MODIFICATION BY THE
COMM 091922 SHL COURT AT ANY TIME PER JUDGE M. PHINN. (CC: ALL PARTIES)
COMM 091922 SHL COPIES OF THE ORDER SENT FROM CHAMBERS TO ALL PARTIES PER
COMM 091922 SHL ORDER.
COMM 091922 SHL ENTRY OF APPEARANCE

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                       CASE INQUIRY  12:24
 CASE 1[illegible]03042 ST C SMITH, ADRIAN               [illegible]8336  [illegible] 060389
EVENT DATE   OPER PART JUDG ROOM HEAR / EVENT COMMENT
CCHK 091522   SHL FILED ATY - KELLY, STEVEN J                  , ESQ 138801
CCHK 091522   SHL YOUNG LEE'S MOTION FOR REINSTATEMENT & DEMAND FOR RIGHTS,
CCHK 091522   SHL CC: JUDGE PHINN
CCHK 091922   BBC ORDER DATED 9-19-22 AND DATE STAMPED 9-19-22: ORDERED THAT
CCHK 091922   BBC DEFENDANT BE PLACED ON HOME DETENTION UNTIL DISPOSITION OF
CCHK 091922   BBC THIS CASE UNDER THE SUPERVISION OF ALERT, A PRIVATE
CCHK 091922   BBC ELECTRONIC HOME DETENTION PROGRAM AND THE DEFENDANT CONTACT
CCHK 091922   BBC ALERT AT 410 [illegible] AND OBTAIN SERVICES NO LATER THAN
CCHK 091922   BBC ON SEPTEMBER 19,2022.  THE DEFENDANT IS SUBJECT TO THE
CCHK 091922   BBC RULES, POLICIES AND PROCEDURES OF SAID PROGRAM, INCLUDING
CCHK 091922   BBC PAYMENT OF SUPERVISION FEES.
CCHK 091922   BBC IT IS FURTHER ORDERED THAT THE DEFENDANT, WITH [illegible]
CCHK 091922   BBC OF THE COURT, MAY BE ALLOWED TIME OUT THE RESIDENCE FOR THE
CCHK 091922   BBC FOLLOWING PURPOSES: LAWFUL EMPLOYMENT AND TO SEEK LAWFUL
CCHK 091922   BBC EMPLOYMENT IF UNEMPLOYED, ATTEND PERSONAL LEGAL APPOINTMENTS
CCHK 091922   BBC PERSONAL FAMILY MEDICAL APPOINTMENTS, TO ATTEND MEETINGS
CCHK 091922   BBC WITH ALERT AND PROBATION OFFICER AS DIRECTED. UP TO FOUR
CCHK 091922   BBC HOURS PER WEEK, WITH THE PERMISSION OF THE COURT AND AT THE
CCHK 091922   BBC DISCRETION OF ALERT, THE DEFENDANT MAY BE PERMITTED TO HAVE
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                 928391  CDO'N DSM C 000300
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922   SSC PERSONAL TIME FOR SHOPPING, BANKING AND PERSONAL HYGIENE AND
COMM 091922   SSC GROOMING, NO WINDOW SHOPPING IS PERMITTED. ALL ACTIVITIES
COMM 091922   SSC ARE TO BE COORDINATED WITH ALERT IN ADVANCE AND DOCUMENTED
COMM 091922   SSC PER PROGRAM RULES PER JUDGE PHINN.
COMM 091922   SSC CC: ALERT INC., PRETRIAL RELEASE, ASA FELDMAN, BECKY AND
COMM 091922   SSC APD SUTER, ERICA.
COMM 091922   SSC COPY GIVEN TO COURTROOM EDITING.  FAXED TO ALERT.
HEAR 091922 T SHL 528:0900:540 (HEAR,HR:SENT)    ;PHINN, MELISSA :BF1
COMM 091922   SHL STATE'S MOTION TO VACATE JUDGMENT OF CONVICTION IS HEREBY
COMM 091922   SHL HEARD AND GRANTED. DEFENDANT RELEASED ON OWN RECOGNIZANCE
COMM 091922   SHL WITH HOME DETENTION THROUGH ALERT. ORDER FILED.
COMM 092122   SHL IT IS ADJUDGED AND ORDERED 09/19/22, THAT IN THE INTEREST OF
COMM 092122   SHL JUSTICE AND FAIRNESS, THE STATE'S MOTION TO VACATE JUDGMENT
COMM 092122   SHL OF CONVICTION IN THE MATTER OF ADNAN SYED AS TO INDICTMENT
COMM 092122   SHL #199103042, COUNT 1 - MURDER IN THE 1ST DEGREE; 6199103045,
COMM 092122   SHL COUNT 1 - KIDNAPPING - ADULT; 6199103046, COUNT 1 - ROBBERY,
COMM 092122   SHL AND #199103044, COUNT 2 - FALSE IMPRISONMENT, IS HEREBY
COMM 092122   SHL GRANTED; AND IT IS FURTHER ORDERED THAT THE DEFENDANT WILL
COMM 092122   SHL BE RELEASED ON HIS OWN RECOGNIZANCE AND PLACED ON HOME
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12:25:24 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                         CASE INQUIRY  12:24
 CASE 199103042 ST S SYED, ADNAN                  926334  COO N DCN C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 092122   SNL DETENTION WITH GPS MONITORING WITH ALERT, INC; AND IT IS
COMM 092122   SNL FURTHER ORDERED THAT THE STATE SHALL SCHEDULE A DATE FOR A
COMM 092122   SNL NEW TRIAL OR ENTER NOLLE PROSEQUI OF THE VACATED COUNTS
COMM 092122   SNL WITHIN 30 DAYS OF THE DATE OF THIS ORDER PER JUDGE M. PHINN.
COMM 092122   SNL (CC: ALL PARTIES) COPIES OF THE ORDER SENT FROM CHAMBERS TO
COMM 092122   SNL ALL PARTIES PER ORDER.
COMM 092622   CSB CERT SENT; PCG; 10/19/22; CSB
COMM 092822   CCA YOUNG LEE'S NOTICE OF APPEAL THE STATE'S MOTION TO VACATE
COMM 092822   CCA FILED BY STEVEN J. KELLY. DUE TO TRANSCRIPT ON 11-28-22.
COMM 092822   CCA ****[illegible]****ASSIGNED TO [illegible]********
COMM 092822   SNM MOTION TO STAY THE CIRCUIT COURT PROCEEDINGS PENDING
COMM 092822   SNM RESOLUTION OF APPEAL & POINTS & AUTHORITIES IN SUPPORT
COMM 092822   SNM EXHIBIT FILED.   CC: JUDGE PHINN
COMM 093022   SNL CERT HEAR; PCG; 09/19/22: SNL
COMM 100622   SNM NOTICE OF INTENTION TO RESPOND FILED; CC: JUDGE PHINN
COMM 101122   CSB NP ENTERED IN COURT
COMM 101122   SBP CASE CLOSED - ALL COUNTS DISPOSED 0020
COMM 101122   SBP NOLLE PROS ENTERED BY THE STATE AS TO ALL COUNTS. ANY
COMM 101122   SBP WARRANTS RECALLED AS TO THIS CASE ONLY. DEFENDANT PRESENT

NEXT PAGE                                       P/N                    PAGE 065
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12:25:24 Wednesday, November 30, 2022

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11/30/22  CRIMINAL COURT OF BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  [illegible]  C0D N DCL C 060399
START DATE   OPER DATE TIME ROOM [illegible] / EVENT COMMENT
COMM 101122   88P (ZOOM).
ACAR 101122   88P ACTIVATE TO CHARGE CALENDAR
ACAL 101122 1 88P P46/0900/540 (ZOOM/[illegible]:   ;PHINN, MELISSA ;8P1
COMM 101122   88P CASE HEARD, P46, 10/11/22; 88P
CCAS 101122   88P CASE CLOSED - ALL COUNTS DISPOSED [illegible]
COMM 101122   CAA NOLLE PROSEQUI ENTERED BY THE STATE AS TO ALL COUNTS. ANY
COMM 101122   CAA WARRANTS RECALLED AS TO THIS CASE ONLY. DEFENDANT PRESENT
COMM 101122   CAA VIA ZOOM. NO COURT FILE.
EXPA 101222   181 EXPUNGEMENT FORM MAILED TO DEFENDANT
COMM 101222   C8U DATE STAMPED & ENTERED 10/12/22: THAT THE VICTIM'S MOTION
COMM 101222   C8U TO STAY CIRCUIT COURT PROCEEDINGS PENDING RESOLUTION OF
COMM 101222   C8U APPEAL IS HEREBY MOOT PER JUDGE PHINN. COPIES HAVE SENT TO
COMM 101222   C8U ALL PARTIES BY CHAMBERS.
ACAL 101922   C88 P46/0900/540 (ZOOM/  ;CASE;   ;PHINN, MELISSA ;8P1
COMM 101922   CAA CASE DISPOSED AND NOLLE PROSEQUI ENTERED ON 10-11-22 PER
COMM 101922   CAA JTS. NO FILES IN COURT.
COMM 111722   CCA ORIGINAL PAPERS FORWARDED TO COSA VIA FED-EX TRACKING #'S
COMM 111722   CCA [illegible], 8176-0777-2187, 8176-0777-2155,
COMM 111722   CCA 8176-0777-2143, 8176-0777-2132, 8176-0777-2139, FOR A TOTAL

[illegible]                                P/F                       PAGE 006
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[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]

[illegible] Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BAL
CASE [illegible]
[illegible]
WIS [illegible]

WIS [illegible]

WIS [illegible]-NICHOLSON, [illegible]

WIS [illegible], [illegible]

WIS [illegible]

WIS [illegible]

WIS [illegible], [illegible]

WIS [illegible]

WIS [illegible]

WIS [illegible]

[illegible]

[redacted]

12:25:27 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BA
CASE 199103042 ST C SYED, ADNAN
CON.FULL NAME/PHONE NUMBER
WIS MICHEL, CATHY

WIS MYERS, KRISTA

WIS O'SHEA, J DET

WIS PAOLETTI, DONNA MS

WIS PHILLIPSON, NINA

WIS PITTMAN, AISHA

WIS PUSATERI, JENNIFER

WIS RODRIGUEZ, WILLIAM DR

WIS SCHAB, BOBB

WIS SCHIEBLER, DAVID

NEXT PAGE

[redacted]

11:25:27 Wednesday, November 30, 2022

11/30/21 CRIMINAL COURT OF NY
CASE 1991090AZ ST C STEED, OSCAR
CON PULL BAIL/PAROLE HEARING
WIS TAYLOR, NIESA

WIS TIBSON, PATRICIA

WIS VINBCK, KRISTINA

WIS WALKER, REBECCA

WIS WARREN, DEBBIE

WIS WATTS, SHARON

WIS WATTS, SHARON

WIS WHITE, MONICA ANN

WIS WOODLEY, LYNETTE

PO BIABA, BAL TECH TRACE DEAL

NEXT PAGE

[redacted]

13:39:28 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                       CASE INQUIRY  12:24
 CASE 199[illegible] ST [illegible], [illegible]              [illegible] [illegible]
CON FULL NAME/PHONE NUMBER         IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/F
PO  [illegible], [illegible]                 [illegible] [illegible]

PO  [illegible], [illegible]                 041499 [illegible]

PO  [illegible], [illegible]                 041498 [illegible]

PO  [illegible], [illegible]                 030399 [illegible]

PO  [illegible], [illegible] F               [illegible]
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END OF DATA   F/1   PAGE 072

STATE OF MARYLAND	2022 SEP 19 PM 1:24	**IN THE**
VS.		**CIRCUIT COURT**
ADNAN SYED	*	**FOR**
Defendant	*	**BALTIMORE CITY**
	*	**Case Nos.: 199103042-46**

* * * * * * * * * * * *

ORDER

The above-captioned matter came before the Court on the State's Motion to Vacate Judgment on September 19, 2022. Upon consideration of the papers, in camera review of evidence, proceedings, and oral arguments of counsel made upon the record, the Court finds that the State has proven grounds for vacating the judgment of conviction in the matter of Adnan Syed. Specifically, the State has proven that there was a Brady violation. Maryland Rule 4-263(d)(5) requires the State to disclose, without request, all material or information in any form whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged. Additionally, the State has discovered new evidence that could not have been discovered by due diligence in time for a new trial under Md. Rule 4-331(c) and creates a substantial or significant probability that the result would have been different. It is this 19th day of **September, 2022**, by the Circuit Court for Baltimore City:

ORDERED that in the interest of justice and fairness, the State's Motion to Vacate Judgment of Conviction in the matter of Adnan Syed as to indictment #199103042, count 1 –

murder in the 1st degree; #199103043, count 1 – kidnapping - adult; #199103045, count 1 – robbery; and #199103046, count 2 – false imprisonment, is hereby **GRANTED**[1]; and it is further

ORDERED that the Defendant will be released on his own recognizance and placed on home detention with GPS monitoring with ALERT, Inc.; and it is further

ORDERED that the State shall schedule a date for a new trial or enter nolle prosequi of the vacated counts within 30 days of the date of this Order.

Judge Melissa Phinn
Judge's Signature Appears
on Original Document Only

Judge Melissa Phinn

NOTICE TO CLERK:
COPIES SENT TO ALL PARTIES.

TRUE COPY
TEST
MARILYN BENTLEY, CLERK

[1] As to indictment #199103044, judgment of acquittal was granted by the Court as to count 1 – robbery (accessory before the fact) and the State entered nolle prosequi as to counts 2 and 3.

YOUNG LEE, AS VICTIM'S REPRESENTATIVE,	*	IN THE
	*	COURT OF SPECIAL APPEALS
Appellant,	*	OF MARYLAND
v.	*	September Term, 2022
STATE OF MARYLAND	*	No. 1291
	*	(Cir. Ct. No. 199103042)

* * * * * * * * * * * * *

ORDER

Having reviewed and considered the following motions and responses, it is this 4th day of November 2022,

1. ORDERED, that upon consideration of Adnan Syed's "Motion to Disqualify Office of the Attorney General as Counsel for the State of Maryland or Strike the State as a Party to the Appeal," the State's opposition thereto, and Mr. Syed's reply to the State's opposition, Mr. Syed's motion is DENIED; and it is further

2. ORDERED, that upon consideration of "Appellant's Response to This Court's Order to Show Cause Why Young Lee's Appeal Should Not be Dismissed as Moot," together with Mr. Syed's reply to Mr. Lee's response, the provision of this Court's October 12 Order directing the appellant to show cause is deemed satisfied. This appeal shall proceed; and it is further

3. ORDERED on the Court's own initiative, that the Clerk of the Circuit Court for Baltimore City is directed to transmit the record to this Court, forthwith; and it is further

4. ORDERED that the appellant's brief shall be filed on or before December 9. The State's brief and the brief of Mr. Syed shall be filed on or before January 9, 2023. The parties are directed to brief (1) whether this appeal is moot, (2) whether this case,

even if moot, warrants the Court's exercise of its discretion to issue an opinion on the merits despite mootness, and (3) the merits of whether the notice Mr. Lee received in advance of the circuit court's *vacatur* hearing complied with the applicable constitutional provisions, statutes, and rules; and it is further

5. ORDERED that this appeal shall be scheduled for consideration in the February 2023 session of this Court; and it is further

6. ORDERED that upon consideration of Mr. Syed's "Motion to Strike Exhibit A to Appellant's Response and Reply to Responses by Appellant and the Office of the Attorney General / Motion to Strike Appendix to Appellant's Response," the appellant's opposition thereto, and Mr. Syed's further reply in support of the motion, Mr. Syed's motion is DENIED.

FOR A PANEL OF THE COURT
(consisting of Nazarian, Beachley, Albright, JJ.)

Anne Albright, Judge

Young Lee, As Victim's Representative v. State of Maryland, et al., No. 1291, September Term, 2022. Opinion by Graeff, J.

CRIMINAL PROCEDURE — VICTIMS' RIGHTS — VACATUR OF CONVICTIONS — NOLLE PROSEQUI — MOOTNESS

The State's entry of a nolle prosequi did not render the Mr. Lee's appeal moot under the circumstances of this case. Although the State's Attorney generally has broad discretion, free from judicial control, to enter a nolle prosequi, this authority is not unfettered. Rather, the courts will temper the State's authority in exceptional circumstances, such as where entry of a nolle prosequi violates fundamental fairness, and in at least some circumstances, where it circumvents the right to appeal.

The entry of the nol pros in this case, entered shortly before a response to Mr. Lee's motion to stay proceedings was due, and before the 30-day deadline provided by Maryland Rule 4-333(i) for the State to either enter a nolle prosequi or take other appropriate action, was done with the purpose or "necessary effect" of preventing Mr. Lee from obtaining a ruling on appeal regarding whether his rights as a victim's representative were violated. Under the unique facts and circumstances of this case, exceptional circumstances exist to temper the authority of the State to enter a nol pros. The nol pros was void, it was a nullity, and it does not render this appeal moot.

Md. Code Ann., Crim. Proc. Art. ("CP") § 8-301.1(a) (Supp. 2022) provides that, on the State's motion, the court may vacate a conviction under certain circumstances. The statute provides victims with the right to prior notice of the hearing on a motion to vacate and the right to attend the hearing. CP § 8-301.1(d). These rights were violated in this case, where the State gave Mr. Lee notice only one business day before the hearing, which was insufficient time to reasonably allow Mr. Lee, who lived in California, to attend the hearing in person, and therefore, the court required Mr. Lee to attend the hearing remotely.

Although remote proceedings can be valuable in some contexts, where, as here, a crime victim or victim's representative conveys to the court a desire to attend a vacatur hearing in person, all other individuals involved in the case are permitted to attend in person, and there are no compelling reasons that require the victim to appear remotely, a court requiring the victim to attend the hearing remotely violates the victim's right to attend the proceeding. Allowing a victim entitled to attend a court proceeding to attend in person, when the victim makes that request and all other persons involved in the hearing appear in person, is consistent with the constitutional requirement that victims be treated with dignity and respect.

A victim does not have a statutory right to be heard at a vacatur hearing. The court, however, has discretion to permit a victim to address the court at a vacatur hearing regarding the impact of the court's decision on the victim and/or the victim's family.

Because the circuit court violated Mr. Lee's right to notice of, and his right to attend, the hearing on the State's motion to vacate, in violation of CP § 8-301.1(d), this Court has the power and obligation to remedy those violations, as long we can do so without violating Mr. Syed's right to be free from double jeopardy. We can do that, and accordingly, we vacate the circuit court's order vacating Mr. Syed's convictions, which results in the reinstatement of the original convictions and sentence. We remand for a new, legally compliant, and transparent hearing on the motion to vacate, where Mr. Lee is given notice of the hearing that is sufficient to allow him to attend in person, evidence supporting the motion to vacate is presented, and the court states its reasons in support of its decision.

Circuit Court for Baltimore City
Case No. 199103042

REPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1291

September Term, 2022

YOUNG LEE, AS VICTIM'S REPRESENTATIVE

v.

STATE OF MARYLAND, ET AL.

Wells, C.J.,
Graeff,
Berger,

JJ.

Opinion by Graeff, J.
Berger, J., dissents.

Filed: March 28, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

This appeal involves convictions dating back to 2000, when a jury in the Circuit Court for Baltimore City convicted Adnan Syed, one of the appellees, for, among other things, the 1999 murder of 17-year-old Hae Min Lee.[1] The court imposed an aggregate sentence of life plus 30 years, and Mr. Syed filed multiple, ultimately unsuccessful, challenges to his convictions in the years that followed.[2]

In September 2022, the State, also an appellee, filed in the Circuit Court for Baltimore City a motion to vacate Mr. Syed's convictions pursuant to Md. Code Ann., Crim. Proc. Art. ("CP") § 8-301.1 (Supp. 2022) (the "vacatur statute"). After a hearing, the court granted the motion and vacated Mr. Syed's convictions.

Young Lee, Hae's brother, appealed to this Court, arguing that the circuit court erred in entering judgment without giving him adequate notice of the vacatur hearing, or a meaningful opportunity to appear and be heard on the merits of the motion to vacate, in violation of the victims' rights provided for in CP §§ 11-101 to 11-619 (2018 Repl. Vol. &

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[1] We shall refer to Hae Min Lee by her first name because she and appellant, Young Lee, have the same surname. We do so for clarity and intend no familiarity or disrespect. *See Syed v. State*, 236 Md. App. 183, 193 (2018) (referring to the victim by her first name "Hae"), *rev'd*, 463 Md. 60 (2019).

[2] This Court affirmed Mr. Syed's convictions in an unreported opinion in 2003. *See Syed v. State*, No. 923, Sept. Term, 2000 (filed March 19, 2003), *cert. denied*, 376 Md. 52 (2003). In 2010, Mr. Syed filed a petition for post-conviction relief, which the circuit court denied in 2014. *Syed*, 236 Md. App. at 193. Mr. Syed filed an application for leave to appeal, which this Court granted, ordering a limited remand. *Id.* at 194. In 2016, after further proceedings, the circuit court granted the petition and granted Mr. Syed a new trial. *Id.* This Court, in a split decision, held that trial counsel's failure to investigate a potential alibi witness was deficient performance that resulted in prejudice, and therefore, a new trial was warranted. *Id.* at 285–86. The Supreme Court of Maryland reversed. *State v. Syed*, 463 Md. 60, 104–05, *cert. denied*, 140 S. Ct. 562 (2019).

Supp. 2022). He subsequently filed, in the circuit court and this Court, a motion to stay further circuit court proceedings. On October 11, 2022, two days before a response to the motion filed in this Court was due, the State entered a nolle prosequi on all charges against Mr. Syed.[3] On October 12, 2022, in light of the State's action, this Court entered an order denying the motion to stay and ordering Mr. Lee to show cause why this appeal should not be dismissed as moot.

On November 4, 2022, after the parties filed responses, this Court ordered that the appeal would proceed, and we directed the parties to brief the following issues on appeal:

1. Whether the appeal is moot.

2. If the appeal is moot, whether this Court should exercise its discretion to issue an opinion on the merits of Mr. Lee's crime victims' rights claim.

3. Whether the notice that Mr. Lee received in advance of the circuit court's vacatur hearing complied with the applicable constitutional provisions, statutes, and rules.

For the reasons set forth below, we conclude that the case is not moot, and the court did not provide Mr. Lee with the rights to be afforded a victim or victim's representative pursuant to the applicable constitutional provisions and Maryland statutes. Accordingly,

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[3] As discussed in more detail, *infra*, a nolle prosequi, or "nol pros," is "an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *State v. Huntley*, 411 Md. 288, 291 n.4 (2009) (citing *Ward v. State*, 290 Md. 76, 83 (1981)). *Accord* Md. Code Ann., Crim. Proc. Art. ("CP") § 1-101(k) (2018 Repl. Vol.) (defining "nolle prosequi" as "a formal entry on the record by the State that declares the State's intention not to prosecute a charge").

we shall vacate the judgment of the circuit court and remand for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

The underlying facts and proceedings have been detailed in previous reported opinions. *See State v. Syed*, 463 Md. 60, *cert. denied*, 140 S. Ct. 562 (2019); *Syed v. State*, 236 Md. App. 183 (2018), *rev'd*, 463 Md. 60 (2019). With respect to the initial convictions, we need not set forth a comprehensive discussion of the evidence, but we note the following "substantial direct and circumstantial evidence," *Syed*, 463 Md. at 97, previously set forth regarding Mr. Syed's guilt:

> [Jay] Wilds testified that Mr. Syed had complained of [Hae's] treatment of him and said that he intended "to kill that bitch." Mr. Wilds claimed to have seen the body of [Hae] in the trunk of her car at the Best Buy parking lot.[4] [Jennifer] Pusateri, a friend of Mr. Wilds, told police, and testified at trial consistent with those statements, that Mr. Wilds told her that [Hae] had been strangled. At the time Ms. Pusateri relayed this information to the police, the manner of [Hae's] death had not been publicly released. Mr. Syed's cell phone records showed him receiving a call in the vicinity of Leakin Park at the time that Mr. Wilds claimed he and Mr. Syed were there to bury [Hae's] body. Mr. Wilds directed the police to the location of [Hae's] abandoned vehicle, which law enforcement had been unable to find for weeks. Mr. Syed's palm print was found on the back cover of a map book that was found inside [Hae's] car; the map showing the location of Leakin Park had been removed from the map book. Various witnesses, including Ms. Pusateri, Nisha Tanna, and Kristina Vinson, testified to either seeing or speaking by cell phone with Mr. Wilds and Mr. Syed together at various times throughout the afternoon and evening on January 13, 1999.

[4] Mr. Wilds testified that, "while he and Mr. Syed were standing near [Hae's] car in the Best Buy parking lot, Mr. Syed showed [him] [Hae's] body in the trunk and boasted, 'I killed somebody with my bare hands.'" *Syed*, 463 Md. at 89.

Id. at 93. "The medical examiner determined that [Hae] had died by strangulation." *Id.* at 96. With respect to Mr. Syed's motive to kill Hae, "the State presented evidence that [Mr. Syed] was jealous and enraged at [Hae's] new romantic relationship with another man." *Id.* at 95–96.

Mr. Syed's own statements regarding his actions on the day Hae disappeared were inconsistent. *Id.* at 90, 93. He told police on the night of her disappearance, January 13, 1999, that he was supposed get a ride home from her, but he got detained at school and assumed she left without him. *Id.* at 90. Two weeks later, on January 25, 1999, he told police that he drove his own car to school and had not arranged to ride with Hae. *Id.* A month later, on February 26, 1999, Mr. Syed said that he could not remember what he did on the day Hae disappeared. *Id.*

I.

Motion to Vacate

On September 14, 2022, the State filed a motion to vacate Mr. Syed's convictions pursuant to CP § 8-301.1. The motion alleged that, after a "nearly year-long investigation," the State and the defense "uncovered *Brady*[5] violations and new information, all concerning the possible involvement of two alternative suspects." The motion further alleged that the State and the defense had also identified "significant reliability issues regarding the most critical pieces of evidence at trial." The State noted that investigative efforts were ongoing, and it was not asserting that Mr. Syed was innocent. It stated,

[5] *Brady v. Maryland*, 373 U.S. 83 (1963).

however, that it no longer had "confidence in the integrity of the conviction," and therefore, it believed that it was in the interests of justice that the convictions be vacated and that Mr. Syed, "at a minimum, be afforded a new trial." The State advised that, if the motion was granted, the decision to proceed with a new trial or enter a nol pros of the charges was "contingent upon the results of the ongoing investigative efforts."[6]

A.

***Brady* Violations and New Information**

The motion alleged that the State had developed evidence that suggested the possible involvement of two alternative suspects. Initially, it located a document indicating that a person provided information to the State that one of the suspects had motive to kill Hae, had threatened to kill her in the presence of another individual, and said that "he would make . . . [Hae] disappear. He would kill her." The second document indicated that a different person gave information "that can be viewed as a motive for that same suspect to

[6] We note that, despite these statements and the assertion that "the State is not asserting at this time that [Mr. Syed] is innocent," less than one week later, on September 20, 2022, then-Baltimore City State's Attorney Marilyn Mosby stated that she intended to "certify that [Mr. Syed was] innocent," unless his DNA was found on items submitted for forensic testing. *See* Mike Hellgren, *Mosby Says If DNA Does Not Match Adnan Syed, She Will Drop Case Against Him*, CBS News Balt. (Sept. 20, 2022, 11:22 PM), http://www.cbsnews.com/baltimore/news/mosby-says-if-dna-does-not-match-adnan-syed-she-will-drop-case-against-him. Ms. Mosby did not explain why the absence of Mr. Syed's DNA would exonerate him. *See Edwards v. State*, 453 Md. 174, 199 n.15 (2017) (where there was no evidence that the perpetrator came into contact with the tested items, the absence of a defendant's DNA "would not tend to establish that he was not the perpetrator of th[e] crime").

harm the victim."[7] The State alleged that this information was not in defense counsel's trial file, and it was not included in any of the State's discovery disclosures. The motion alleged that the failure to disclose this alternative suspect information was material and would have been helpful to the defense. The motion then noted in a footnote, however, that, "[i]f this information was indeed provided to [the] defense, then minimally, the failure to utilize this evidence would constitute ineffective assistance of trial counsel."

The motion alleged that new evidence had been found during the investigation in 2022, i.e., that the location where Hae's car was found, in a grassy lot behind the 300 block of Edgewood Avenue in Baltimore City, was known to one of the alternative suspects, and that person lived at that location in 1999. The State alleged that such information was not available to the defense at trial, and "it would have provided persuasive support substantiating the defense that another person was responsible for the victim's death."

The State indicated that it had new information that one of the alternative suspects had been convicted of violent acts, and one of the suspects had improperly been cleared as a suspect by a polygraph test. The State asserted that, "to protect the integrity of the on-

[7] In its response to Mr. Syed's motion to disqualify the Office of the Attorney General as counsel for the State of Maryland, filed in this Court on October 25, 2022, the State, through the Attorney General's Office, stated that, despite a "nearly year-long" investigation, the State's Attorney never contacted the Attorney General's Office or the person who prosecuted the case and authored the notes that were "subject to multiple interpretations."

going investigation, the names of the suspects, which suspect in particular, and the specific details of the information obtained will not be provided at this time."[8]

B.

Reliability of Trial Evidence

The State then alleged that, although the *Brady* violations justified the grant of a new trial, a review of the evidence gave the State additional concerns contributing to its conclusion that it no longer had faith in the integrity of the convictions. It discussed consultations with two expert witnesses who "called the reliability of the State's testimony at trial [regarding the cellphone location evidence] into question." It alleged that new information regarding Ms. Vinson's schedule on January 13, 1999, called into question her testimony that Mr. Wilds and Mr. Syed came to her home on January 13 at approximately 6:00 p.m., and during the visit, Mr. Syed received a call on his cell phone and quickly left.

The State asserted that it could not rely on Mr. Wilds' testimony alone, noting "concerning discrepancies" between Mr. Wilds' various statements, his testimony, the cell phone records, and the State's timeline at trial. Finally, the State alleged that, although it was not making any claims regarding the integrity of the police investigation, it was obligated to note the misconduct of Baltimore Police Detective William Ritz, one of the

[8] CP § 8-301.1(b)(2) provides that a motion to vacate must "state in detail the grounds on which the motion is based," but the State's motion did not identify the two alternate suspects or explain why the State believed those suspects committed the murder without Mr. Syed. The note indicating that one of the suspects had motive to kill Hae is not part of the record on appeal, and in the State's October 25, 2022 response, the Office of the Attorney General stated that there is other information in the note that was relevant but not cited in the motion to vacate.

homicide detectives who initially investigated Hae's murder and Mr. Syed's involvement in the crime, in another case.

II.

Response to Motion to Vacate

That same day, on September 14, 2022, Mr. Syed filed a response to the State's motion to vacate. The response alleged that the *Brady* material described in the State's motion, i.e., that one of the alternate suspects threatened Hae's life and had motive to harm her, was not in the defense trial file and was not reflected in any of the State's discovery disclosures. Mr. Syed was not aware that such information existed, or that the State possessed it in its files, until 2022. He argued that the State's failure to disclose this information violated its discovery obligations under the Maryland Rules, the ethical duties of a prosecutor, and the constitutional requirements of *Brady*. The response also alleged that the recent revelations set forth in the State's motion to vacate "rightfully caused the State to lose faith in the integrity of this conviction." Mr. Syed argued that his convictions should not stand.

III.

Chambers Hearing

Two days later, on Friday, September 16, 2022, the court held an off-the-record discussion in chambers regarding the State's motion to vacate.[9] The prosecutor for the Baltimore City State's Attorney's Office ("SAO") stated at the vacatur hearing that she and

[9] We do not have a transcript of this discussion, and therefore, we merely summarize the parties' and the court's representations relating to the discussion.

defense counsel met with the court and showed the court the "two documents containing *Brady* information in camera last week." The court in its ruling also referred to its "in camera review of evidence." The record indicates that a date for the vacatur hearing the following Monday, September 19, 2022, also was determined during that meeting.

IV.

Notice to Mr. Lee

The prosecutor, Becky Feldman, advised the court at the beginning of the vacatur hearing regarding her communications with Mr. Lee. On Monday, September 12, 2022, she called Mr. Lee, who lived in California, and notified him that the State was going to file the motion to vacate. She told him "that there would be a hearing in this matter," and she asked whether he would like to be notified. Mr. Lee responded: "[A]bsolutely . . . let me know if there's a hearing." Ms. Feldman "did not ask, nor did he state that he would be present physically."

Ms. Feldman called Mr. Lee again the following day, Tuesday, September 13, 2022. She "let him know what was happening" and "what information [they] had developed." She also "went through the motion a bit" with Mr. Lee and emailed a copy of the motion to him that same day. Mr. Lee responded to the email by expressing disagreement with the State's decision to move to vacate the convictions. The motion to vacate was filed the next day, Wednesday, September 14, 2022.

The prosecutor stated at the vacatur hearing that right after the discussion with the court, at approximately 2:00 p.m. on Friday, September 16, 2022, she sent an email to Mr.

Lee, advising him that the court had "just scheduled an in-person hearing" for the following Monday, September 19, 2022, at 2:00 p.m. Ms. Feldman advised Mr. Lee:

> It's an in-person hearing, but I asked the court for permission for you and your family to watch the proceedings virtually (if you would like). So, if you would like to watch, the link is below. Please let me know if anybody from your family will be joining the link, so I will make sure the court lets you into the virtual courtroom. . . . Please let me know if you have any questions.

Mr. Lee did not respond to the email.

Because Ms. Feldman did not receive a reply from Mr. Lee, she texted him the day before the hearing, Sunday, September 18, 2022, to ensure that he received the email and was aware of the hearing. Mr. Lee responded to Ms. Feldman's text message that "he was aware and that he would attend via Zoom link."

V.

Motion for Postponement

On the morning of Monday, September 19, 2022, Mr. Lee filed a motion to postpone the hearing on the State's motion to vacate. In support, Mr. Lee argued that permitting the hearing to occur as scheduled would violate the crime victims' rights of the Lee family "in three critical respects": (1) the SAO failed to reasonably inform Mr. Lee of the State's motion to vacate and the hearing on the motion; (2) Mr. Lee would be denied the right to be present and heard at the proceeding if the hearing moved forward as planned; and (3) Mr. Lee could not meaningfully participate in the hearing because the State's Attorney failed to inform him of the facts supporting the motion to vacate.

Mr. Lee alleged that, although the State's Attorney investigated the case for more than one year, "her office waited until the Friday before the motions hearing to notify the

family of the Monday, 2:00 p.m. hearing." He alleged that the State's Attorney was "fully aware" that he lived in Los Angeles and "would almost certainly be unable to fly to Baltimore on half a business day's notice." Although Ms. Feldman previously had informed him by email that he and his family could "watch the proceedings virtually," the Lee family wanted to be physically present at the in-person hearing, and the "notice provided was patently insufficient to permit that to happen." Additionally, Ms. Feldman's email did "not even mention [the Lee family's] right to speak at the hearing, suggesting they [had] none, though they plainly do under Maryland law."

Mr. Lee further alleged that, even if the Lee family could attend the hearing in person, they "could not meaningfully participate and be heard" because the motion to vacate "presents no factual basis for vacating the sentence," and the State's Attorney's Office had not "disclosed the factual basis to the family through other means." In this regard, the motion to vacate did not name any alternate suspects, and it failed to support "an inference that one or more alternative suspects exists." The motion instead "alludes to an 'ongoing' investigation and rehashes arguments that the Court of Appeals rejected when it affirmed Mr. Syed's conviction in 2019."[10] Accordingly, Mr. Lee requested that the court postpone the hearing on the motion to vacate by seven days and direct the SAO to pay for Mr. Lee's travel to Baltimore using unspent victim relocation funds.

[10] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

VI.

Vacatur Hearing

Later that day, the court held a hearing on the State's motion to vacate. Ms. Feldman appeared for the State. Defense counsel, Erica Suter, and counsel for Mr. Lee, Steven Kelley, also appeared at the hearing.

A.

Argument on the Motion to Postpone

The court heard argument from counsel for Mr. Lee regarding the motion to postpone. He noted that he was "not prepared to address" and did not "want to address the merits" of the motion to vacate. Instead, he was present "strictly as a matter of victim's rights" and "[s]trictly on the issue of the right of th[e] [Lee] family to meaningfully participate."

Counsel argued that, pursuant to CP § 11-102, a crime victim or victim's representative (hereafter sometimes referred to collectively as "victim") has the same right to be present at proceedings as the defendant. In this case, "giving a late afternoon notice to a family of Korean national immigrants on a Friday afternoon for a motion that has been contemplated for one year, according to the State's filings," was "patently unreasonable" and afforded no opportunity for Mr. Lee to be present. Counsel also argued that it was unreasonable for the State to fail "to give any kind of notice as to what it is that has caused the concern on the part of the [SAO]." Counsel disagreed with the State's position that "the victim of a crime in Maryland has no right to meaningful[ly] participate in this proceeding." He asserted that, under the relevant constitutional provisions, statutes, and

rules, a crime victim or victim's representative has "a meaningful opportunity to participate." Recognizing "there are real liberty issues at stake for Mr. Syed," counsel requested that the court grant a postponement of the vacatur hearing for "a very reasonable amount of time, seven days" for Mr. Lee to attend the hearing in person "and to meaningfully participate."

Before ruling on the motion to postpone, the court asked Mr. Lee's counsel: "What is attendance, what is presence?" The court noted in this regard that, since the beginning of the COVID-19 pandemic in 2020,

> we have been conducting [c]ourt in a lot of jurisdictions around the country via Zoom.
>
> So as far as the Maryland [R]ules [are] concerned, 4-231(e), electronic proceedings are allowed in the [c]ircuit [c]ourt for any [c]ircuit [c]ourt. And we do them here every day.[11]
>
> So if Mr. Lee, as he informed Ms. Feldman, intended to attend the hearing today, his presence would be known here today on the Zoom.

The court stated that, based on its review of the statutes and rules, there was nothing, with respect to the motion to vacate, that "indicates that the victim's family would have a right to be heard." The court stated, however, that, "of course, if Mr. Lee was present today on the Zoom and he wanted to speak, [it] would allow him to speak." In this regard, the court asked Mr. Lee's counsel:

> Are you not aware that . . . by him telling us on Friday that he was going to appear via Zoom is why we set this hearing today? Because had we known that on Friday then, of course, we would have scheduled this hearing

[11] Rule 4-231(e) provides that a circuit court may conduct an initial appearance of the defendant or a review of the District Court's release determination in specified circumstances.

according to when he was planning to arrive within a reasonable amount of time. So he didn't do that.

The court stated that "counsel and I have been in close communication about this case procedurally since Friday."

Mr. Lee's counsel disagreed with the court's statement that, on the previous Friday, Mr. Lee advised that he would appear by Zoom, asserting that Mr. Lee "did not state . . . at any time" on Friday, September 16, 2022, "that he would participate." Ms. Feldman then confirmed that the text message from Mr. Lee stating that he would participate by Zoom was on Sunday, September 18, 2022, at 4:08 p.m. The court advised that, "had [Mr. Lee] told Ms. Feldman that he didn't want to participate via Zoom and wanted to be in person, she would have communicated that to [the court] and then we would have taken the appropriate steps."

In response, counsel for Mr. Lee argued "that's not adequate notice under Maryland law." He stated that Mr. Lee is "a layman" who "didn't know any better," and he "was trying to get counsel" after being "told by the State's Attorney's Office that he didn't have the right to meaningful[ly] participate in this hearing." The court responded that CP § 8-301.1 said "notice," but it did not say "reasonable notice." Mr. Lee's counsel stated "that reasonableness is a standard that's been long applied," and under that standard, one day's notice was not adequate. He expressed his belief that there was not "any appellate court that would find this notice reasonable."[12]

[12] Counsel for Mr. Lee then requested that, if the court denied the motion to postpone, the case "be stayed pending appellate review." The court did not explicitly rule

The State argued that CP § 8-301.1 "just requires notice and attendance." Ms. Feldman clarified, however, that it was not the position of the SAO to "object in any way to someone being present and participating if they wanted to." She noted that, although "this is an in-person hearing," she "asked [for] this to be by Zoom" and established with the court "this arrangement in case [Mr. Lee] would like . . . to observe the hearing." She also noted that, as soon as she returned to her office on Friday, September 16, 2022, she emailed Mr. Lee, "knowing what the new date was," and she "would never tell a victim ever that they did not have the right to attend or make a statement."

The court denied the motion to postpone. At the request of counsel for Mr. Lee, the court declared a 30-minute recess so that Mr. Lee could leave work and "get home" to join the hearing in a private place where he could participate.

B.

Mr. Lee's Statement

The court reconvened at 3:35 p.m., and Mr. Lee joined the vacatur hearing remotely via Zoom. The following then ensued:

> THE COURT: You're here today to make a statement and the [c]ourt is ready to hear from you.
>
> MR. LEE: Thank you, Your Honor. Thank you for giving this time to speak.
>
> I'm sorry if I – sorry, my heart is kind of pounding right now.

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on the request at the vacatur hearing, but it implicitly denied the request by proceeding with the hearing. *See Fraze v. Barnhart*, 379 Md. 100, 116 (2003) ("'[W]hile it is certainly the better practice to specifically rule on all pending motions, the determination of a motion need not always be expressed but may be implied by an entry of an order inconsistent with the granting of the relief sought.'") (quoting *Wimberly v. Clark Controller Co.*, 364 F.2d 225, 227 (6th Cir.1966)).

THE COURT: That's fine.

MR. LEE: I apologize. There was some issues with Zoom. I personally wanted to be there in person, but Your Honor, it's – I've been living with this for 20 plus years and every day when I think it's over, when I look and think it's over or it's ended, it's over. It always comes back. And it's not just me, killing me and killing my mother and it's really tough to just going through this again and again and again. I believe in the justice system, the [c]ourt, the State, and I believe they did a fine job of prosecuting Mr. Syed. And I believe the [j]udge did make the right decision, but just going through it again it's living a nightmare over and over again. It's tough.

And I am not – like I said before, I trust the court system and just trust in the justice system and I am not against – it's really – it was kind of – I was kind of blind [sided]. I always thought the State was on my side, you know, but I don't know where – I hear that there's a motion to vacate judgment and I thought honestly I felt honestly betrayed, why is my – I kept thinking to myself, why is the State doing this.

And I am not against an investigation or anything of that sort that Ms. Feldman is doing. I am not against it at all. It just – but the motion just to vacate judgment, it just – it's really tough for me to swallow, especially from – I am not an expert in legal matters, in law or anything like that, but I ask you . . . just to make a right decision that you see. But just this motion, I feel that it's unfair, especially for my family just to live through it all and knowing that there's somebody out there just free of killing my sister. It's tough.

And I just wanted to say this in person, but I didn't know I had the opportunity, but I just – and it's tough. Yeah. It's tough, it's tough. This is not a [indiscernible] for me, it's just real life, never ending after 20 plus years.[13] Just on the thought that [indiscernible]. I just want the judge to know like the stuff that we're going through, our family, it's killing us. And I ask . . . that you make the right decision. That's all, Your Honor.

THE COURT: All right. Thank you, Mr. Lee.

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[13] Subsequent media reports indicated that Mr. Lee said: "This isn't a podcast for me, it's real life." *See, e.g.*, Aya Elamroussi & Sonia Moghe, *The Family of Hae Min Lee Requests Maryland Court to Halt Legal Proceedings in Adnan Syed's Case*, CNN (Oct. 6, 2022, 9:00 AM), http://www.cnn.com/2022/10/06/us/adnan-syed-hae-min-lee-serial-case-family-motion/index.html.

The court noted "how difficult" and "very emotional" the day was for Mr. Lee and his family. It stated to Mr. Lee: "I appreciate you joining the Zoom this afternoon to make this statement because it is important to hear from the victim or the victim's representative. And I thank you for doing that this afternoon, sir." Mr. Lee responded to the court: "You're welcome, Your Honor. Thank you for hearing me."

Counsel for Mr. Lee requested the court's permission to "just say a couple of sentences" following Mr. Lee's statement, but the court denied counsel's request and did not allow counsel to present any further argument. The court then found that the State had met the notice requirement set forth in CP § 8-301.1, and it stated that the hearing would commence at that time.

C.

Hearing on the Motion to Vacate

Ms. Feldman argued that the State was "proceeding under the second standard" set forth in CP § 8-301.1, i.e., that the SAO received new information after the judgment of conviction that called into question the integrity of the conviction and the interest of justice and fairness justified vacating the conviction. She acknowledged that the procedural posture of the motion to vacate was "unusual" because the State's Attorney's Office would be continuing its investigation even if the motion to vacate is granted. She stated: "[The State] will not be asking the [c]ourt to dismiss the case at this time. Instead, we are requesting that a trial be set in."

The SAO began its reinvestigation in October 2021. The initial review generated "some concerns," and in March 2022, the SAO requested, and the circuit court approved, touch DNA testing of Hae's clothing. Such testing had not previously been performed.

In June 2022, Ms. Feldman discovered documentary "*Brady* material" in the State's trial file, which she immediately disclosed to Mr. Syed's counsel. She stated that the additional information indicated that there was at least one individual, other than Mr. Syed, who "was a credible alternative suspect with a motive." The State did not move to vacate Mr. Syed's convictions at that time because it was waiting for the results of the touch DNA testing. It then conducted a "lengthy" investigation of the alternate suspects.

Ms. Feldman marked her signed affidavit, dated September 19, 2022, as State's Exhibit No. 1. She proceeded to "read a few of the most relevant portions" of her affidavit on the record. In the affidavit, Ms. Feldman discussed the discovery of the *Brady* material in the State's trial file, as follows:

> • Ms. Feldman started working for the SAO in December 2020, when she became Chief of its Sentencing Review Unit.
>
> • Ms. Suter approached the SAO regarding her client, Mr. Syed, and the possibility of pursuing on his behalf a motion under Maryland's Juvenile Restoration Act.[14]
>
> • On October 2, 2021, Ms. Suter transferred case and mitigation-related materials to Ms. Feldman, who "began reviewing the case soon thereafter."

[14] The Juvenile Restoration Act, 2021 Md. Laws ch. 61 (codified at CP §§ 6-235, 8-110), which went into effect on October 1, 2021, allows individuals convicted as juveniles (i.e., individuals under the age of 18), who have served at least 20 years in prison, to file a motion with the court to request a reduction of their sentence. *See* CP § 8-110 (a), (b). The State's Attorney's Office's Sentencing Review Unit "reviews and responds to all Juvenile Restoration Act motions filed in Baltimore City."

• Approximately seven months later, on May 12, 2022, Ms. Feldman contacted the Office of the Attorney General, requesting the State's trial file and in particular "any reports regarding the investigation," "cell phone reports & records," and "witness interviews."

• Ms. Feldman does not know how and where the State's trial file was maintained between 1999 and the time when it was delivered to the Attorney General's Office.

• Ms. Feldman does not know when the State's trial file was delivered to the Attorney General's Office.

• On June 22, 2022, Ms. Feldman accessed the record at the Attorney General's Office and "was able to go through several of the boxes and photocopied various documents." When she scanned the documents and sent them to Ms. Suter later that same day, Ms. Feldman discovered "that 2 of the documents [she] scanned contained potential *Brady* material."

• The two documents "were handwritten by either a prosecutor or someone acting on their behalf." They were "detailed notes of two separate interviews of two different people contacting the [SAO] with information about one of the suspects."

• One of the interviews occurred in January 2000, approximately one month before Mr. Syed was convicted of Hae's murder. The information relayed to the SAO was that one of the suspects was "upset" with Hae and "he would make her . . . disappear. He would kill her." The other interview, which occurred in October 1999, was with a different person, who relayed "a motive for that same suspect to harm the victim." Both documents were difficult to read because the handwriting was poor. The handwriting was consistent with that in other handwritten documents in the State's trial file.

• Based on the information from those interviews, Ms. Suter and Ms. Feldman "conducted a fairly extensive investigation." Based on the investigation, the State believed "that this suspect had motive, opportunity, and means to commit this crime." That investigation "remain[ed] ongoing" at the time.

• The two documents that Ms. Feldman discovered were not in the defense attorney's trial file, "nor were there any notes that resembled, in any way, the information that was contained in the State's notes." The information "also was not contained in any of the disclosures made by the State during the

trial." Ms. Feldman and Ms. Suter "were both shocked to see these documents."

• Due to "the concerning nature of the *Brady* material," Ms. Feldman "re-reviewed all of the boxes" over the course of two days, on July 29 and August 11, 2022, at the Attorney General's Office. She did not locate any other "potential *Brady* information."

• Ms. Feldman had no personal knowledge regarding what parts of the file were made available to other attorneys.

The court subsequently admitted Ms. Feldman's affidavit into evidence as State's Exhibit No. 1.

Ms. Feldman stated that there were "an abundance of issues" that generated "overwhelming cause to question the reliability of [Mr. Syed's] conviction." She stated that there was "new evidence" regarding the location of Hae's car, and one of the alternative suspects "was not properly cleared as a suspect based on the incorrect use of a polygraph examination." Ms. Feldman asserted that the "cell site evidence," i.e., the "cell site records" of incoming calls to Mr. Syed's cell phone on the date of Hae's murder, which was "a critical piece of information at trial," was unreliable. Another consideration regarding the reliability of the investigation conducted in this case was "past misconduct" of Detective Ritz in a prior case "that resulted in an innocent man serving 18 years in prison."

Ms. Feldman expressed concern regarding "the reliability of Jay Wilds," noting that he gave different versions of events in different statements. She stated that it was "extremely difficult . . . to rely on his testimony alone without sufficient corroboration."

She then discussed concerns with the corroborating testimony of Ms. Vinson and Ms. Pusateri.

Based on these issues, the State questioned the reliability of Mr. Syed's convictions. Ms. Feldman noted that "[t]he State's duty, in this case, was to ensure [that] the person or persons responsible for [Hae's] death were brought to justice. The State's defective investigation of [her] murder failed to properly rule out at least two suspects who had motive and opportunity to kill [Hae]." She asserted that the "faulty investigation" of Hae's murder developed evidence against Mr. Syed that was "not reliable," and the motion to vacate "acknowledges [that] justice has been denied to [Hae] and her family by not ensuring [that] the correct assailant was brought to justice." Ms. Feldman then stated in conclusion, as follows:

> I understand how difficult this is but we need to make sure we hold the correct person accountable. Our solemn duty, as prosecutors, is to seek justice over convictions. The [SAO] believes that we are morally and ethically compelled, at this moment, to take affirmative action to rectify the justice that was denied to Mr. Syed.
>
> The State has lost confidence in the integrity of his convictions and believes that it is in the interest of justice and fairness that his convictions be vacated.
>
> It is our promise that we will do everything we can to bring justice to the Lee family. This means continuing to utilize all available resources to bring a suspect or suspects to justice and hold them accountable.

Ms. Suter then addressed the court. After expressing sympathy to Mr. Lee and his family, she stated that Mr. Syed was innocent.

The only evidence admitted at the hearing was Ms. Feldman's affidavit and a letter written by Mr. Syed's original defense counsel, M. Cristina Gutierrez, dated January 6,

2000. This letter requested *Brady* material from the State, stating that, "[d]espite [Mr. Syed's] multiple requests for disclosure of such material, exculpatory or mitigating information within the State's possession continues to come to light as this case proceeds."

Ms. Suter proffered that the documents that the State referred to as *Brady* material "were not in the defense file." She further proffered "that previous post-conviction counsel in this case would also state to the best of his knowledge and recollection, he has never seen these documents." She asked that Mr. Syed's convictions be vacated.

D.

Circuit Court's Ruling on the Motion to Vacate

The court then issued its oral ruling from the bench, finding that, "[u]pon consideration of the papers, in camera review of evidence, proceedings and oral arguments of counsel made upon the record," the State had "proven grounds for vacating the judgment of conviction in the matter of Adnan Syed." The court found that the State had "proven that there was a *Brady* violation." It also found that the State had "discovered new evidence that could not have been discovered by due diligence in time for new trial under Maryland Rule 4-331(c)," and such information "create[d] a substantial and significant probability that the result would have been different."[15]

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[15] We note that, although CP § 8-301.1(f)(2) requires the court to "state the reasons for" its ruling, the court did not explain its reasons for finding a *Brady* violation. *See State v. Grafton*, 255 Md. App. 128, 144 (2022) (*Brady* violation requires proof that: (1) the prosecutor suppressed or withheld evidence; (2) the evidence was favorable to the accused; and (3) the evidence was material). It did not explain how, or if, it found that the evidence was suppressed, despite the lack of affirmative evidence that the information had not been disclosed, and the statement in the motion to vacate that, "[i]f this information was indeed

The court stated that, "in the interests of justice and fairness," it would grant the State's motion to vacate Mr. Syed's convictions for first-degree murder, kidnapping, robbery, and false imprisonment. It ordered that Mr. Syed be released on his own recognizance, subject to home detention with GPS monitoring. It further ordered, consistent with Maryland Rule 4-333(i), that the State "schedule a date for a new trial or enter a [nol] pros of the vacated counts within 30 days of the date of this order."[16]

The court then instructed security to "remove the shackles from Mr. Syed." The court stated its understanding that "the State and all counsel will hold a press conference outside the courthouse this afternoon," and it excused the press from the courtroom and directed those who were not members of the press to remain seated. A person in the courtroom applied an ankle monitor to Mr. Syed and stated that the necessary paperwork would be submitted later. The court then told Mr. Syed that he was free to leave and told "the people on the phone" that the hearing had concluded. That same day, the court issued a written order memorializing its ruling.

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provided to defense," the failure to utilize it would be ineffective assistance of counsel. The court also did not explain how the notes met the *Brady* materiality standard. Additionally, the court found that the State discovered new evidence that created a substantial likelihood of a different result, but it did not identify what evidence was newly discovered or why it created the possibility of a different result.

[16] Maryland Rule 4-333(i) provides, in part: "Within 30 days after the court enters an order vacating a judgment of conviction . . . as to any count, the State's Attorney shall either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

E.

Subsequent Appeal and Entry of a Nolle Prosequi

On September 28, 2022, Mr. Lee filed a notice of appeal, pursuant to CP § 11-103(b), regarding the court's September 19, 2022 order.[17] The next day, September 29, 2022, Mr. Lee filed in the circuit court a motion to stay the proceedings pending appeal, asking the court to rule on the motion by the close of business that day. On Wednesday, October 5, 2022, after no ruling had been issued in the circuit court, Mr. Lee filed in this Court a motion to stay the circuit court proceedings pending appeal. He argued that all proceedings in the circuit court should be stayed pending the resolution of this appeal in order "[t]o preserve this Court's appellate jurisdiction and to avoid irreparable prejudice to Mr. Lee's right to appeal." On Thursday, October 6, 2022, Mr. Syed filed in this Court a notice of intent to respond to the motion to stay.

At 8:55 a.m. on October 11, 2022, prior to the time a response to the motion to stay was due, *see* Md. Rule 8-431(b) (response to motion shall be filed within five days after service of the motion), and eight days before the 30-day deadline to enter a nolle prosequi or take other appropriate action under Rule 4-333(i), the State appeared in court and

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[17] The right to appeal generally is limited to a party. *See* Md. Code Ann., Cts. & Jud. Proc. Art. § 12-301 (2020 Repl. Vol.) ("a party may appeal from a final judgment entered in a civil or criminal case by a circuit court"). CP § 11-103(b), however, provides: "Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may . . . appeal to the [Appellate Court of Maryland] from a final order that denies or fails to consider a right secured to the victim by [various statutes]." *Accord* Md. Rule 8-111(c) ("a victim of a crime" is "not a party to a criminal or juvenile proceeding"). It is undisputed here that Mr. Lee had a right to appeal the court's September 19, 2022 order on the basis that, in granting the State's motion to vacate, the court denied or failed to consider "a right secured to the victim."

indicated that it would be entering a nol pros of Mr. Syed's vacated charges. The court stated that the nol pros was "entered."

On October 12, 2022, this Court, in response to the State's action, denied the motion to stay and ordered Mr. Lee to "show cause in writing, within 15 days from the date of this Order, why this appeal should not be dismissed as moot in light of the *nolle prosequi* filed" the previous day.[18] The parties filed additional written submissions. On November 4, 2022, this Court issued an order that "the provision of this Court's October 12 Order directing the appellant to show cause is deemed satisfied. This appeal shall proceed."[19]

DISCUSSION

In his briefs filed in this Court, Mr. Lee lists multiple concerns about the vacatur proceedings. Initially, he contends that the State and the circuit court violated his rights to "reasonable notice, to appear, and to be heard." He further asserts that the court held "an improper, clandestine, *in camera* prehearing," which neither he nor the public knew occurred. He argues that the on-the-record vacatur hearing was a "farce," where no evidence was produced and there was "a predetermined outcome decided in the closed-chambers prehearing." Mr. Lee challenges the validity of the State's assertion that there was a *Brady* violation, and he asserts that the court did not properly issue findings

[18] That same day, the circuit court denied Mr. Lee's motion to stay the proceedings pending appeal on the ground that the State's nol pros rendered the motion moot.

[19] This Order also denied Mr. Syed's motion to strike the State, represented by the Attorney General's Office, as a party to the appeal.

explaining how there was such a violation. Mr. Lee argues that "the circuit court conducted neither a full nor transparent review of long-since discounted evidence."

We share many of Mr. Lee's concerns about how the proceedings were conducted. The scope of our review in this appeal, however, is limited to whether the court denied Mr. Lee rights to which he was entitled as the victim's representative. Thus, as indicated in our Order that the appeal should proceed, the issues before us are: (1) whether the appeal is moot; (2) if moot, whether we nevertheless should address the merits of the appeal; and (3) did Mr. Lee receive the rights to which he was entitled as a victim's representative.

Mr. Lee contends that this appeal is not moot and that the court violated his constitutional and statutory rights to reasonable notice, to appear, and to be heard. He asserts that the court "erred by endorsing inadequate notice, relying on secret evidence, and entertaining only perfunctory input from Mr. Lee after it had predetermined its holding." Before we address those issues, we set forth a brief discussion of victims' rights and the vacatur statute and corresponding rule.

I.

Victims' Rights

This Court recently noted the "clear public policy" in Maryland "to provide broad rights to crime victims in [the] trial and appellate courts." *Antoine v. State*, 245 Md. App. 521, 539 (2020) (quoting *Lopez v. State*, 458 Md. 164, 175 (2018)). In 1994, the voters of Maryland ratified Article 47 of the Declaration of Rights, which provides:

> (a) A victim of crime shall be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process.

> (b) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime", "criminal justice proceeding", and "victim" are specified by law.
>
> (c) Nothing in this Article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

Md. Const., Decl. of Rts., art. 47. Article 47 "represents 'the strong public policy that victims should have more rights and should be informed of the proceedings, that they should be treated fairly, and in certain cases, that they should be heard.'" *Hoile v. State*, 404 Md. 591, 605 (2008) (quoting *Lopez–Sanchez v. State*, 388 Md. 214, 229 (2005)), *superseded by statute on other grounds*, 2013 Md. Laws ch. 363, § 1 (codified at CP § 11-103), *as recognized in Antoine*, 245 Md. App. at 541–42.

The General Assembly has passed a number of statutes to implement those rights. For example, CP § 11-1002(b)(1) and (3) set forth guidelines for the treatment of a crime victim or victim's representative, including that they "should be treated with dignity, respect, courtesy, and sensitivity," and that they "should be notified in advance of dates and times of trial court proceedings in the case and . . . of postsentencing proceedings."

We will discuss other statutes, as applicable, *infra*.

II.

Vacatur of Convictions

The General Assembly has provided for various rights for victims depending on the proceeding involved. This appeal involves victims' rights in the context of a proceeding

pursuant to CP § 8-301.1, which became effective on October 1, 2019. *See* 2019 Md. Laws ch. 702.

CP § 8-301.1 provides that a court may vacate a conviction on a State's motion to vacate a judgment of conviction (or a probation before judgment) on either of two grounds: (1) there is "newly discovered evidence" that "could not have been discovered by due diligence in time to move for a new trial under Maryland Rule 4-331(c)," which "creates a substantial or significant probability that the result would have been different"; or (2) after the entry of the conviction or probation before judgment, the prosecutor "received new information" that "calls into question the integrity of the probation before judgment or conviction." CP § 8-301.1(a)(1)(i)–(ii). The State here advised the court that it was proceeding under the second prong.

If the State meets its burden of proof to show either of these grounds, *see* CP § 8-301.1(g), the court must find that "the interest of justice and fairness justifies vacating the probation before judgment or conviction." CP § 8-301.1(a)(2). The court shall hold a hearing if the motion filed satisfies the requirements of the statute, unless "the court finds that the motion fails to assert grounds on which relief may be granted." CP § 8-301.1(c).[20]

With respect to the notice required to be given to the victim regarding such a hearing, and the victim's right to attend, CP § 8-301.1(d) provides, as follows:

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[20] CP § 8-301.1(b) provides that a motion to vacate shall: "(1) be in writing; (2) state in detail the grounds on which the motion is based; (3) where applicable, describe the newly discovered evidence; and (4) contain or be accompanied by a request for a hearing."

> (d)(1) Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article.
>
> (2) A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article.

In ruling on a motion, the court may "vacate the conviction or probation before judgment and discharge the defendant" or deny the motion. CP § 8-301.1(f)(1)(i). The court shall "state the reasons for a ruling . . . on the record." CP § 8-301.1(f)(2).[21]

Maryland Rule 4-333, effective January 1, 2020, implements CP § 8-301.1 and provides further requirements when there is a motion to vacate a conviction. With respect to notice to the victim, Rule 4-333(g)(2) provides:

> Pursuant to Code, Criminal Procedure Article, § 8-301.1(d), the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing.

Rule 4-333(h) addresses the conduct of the hearing. Rule 4-333(h)(1) provides that, if the victim or victim's representative entitled to notice is not present at the hearing, "the

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[21] The legislative history of CP § 8-301.1 indicates that the statute was enacted, at least in part, in response to criminal activity by members of the Baltimore Police Department's Gun Trace Task Force, which potentially affected many convictions in Baltimore City. *See* Md. Gen. Assemb. S. Jud. Proc. Comm., Floor Report, H.B. 874, 2019 Leg., 439th Sess., at 4–5 (2019). The legislative history also reflects an intent to allow the State to move to vacate crimes based on acts that are no longer a crime, such as use or possession of less than 10 grams of marijuana. *See* H.B. 874, Committee Recommendation. This history suggests that the statute was intended to be used when there was no dispute that the convictions should be reversed, although its ultimate language does not include any such limitation.

State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Rule 4-333(h)(3) provides that, after a hearing, "[t]he court shall state its reasons for the ruling on the record." As the parties note, following subsection (h) of Rule 4-333, the following cross-reference appears: "For the right of a victim or victim's representative to address the court during a sentencing or disposition hearing, see Code, Criminal Procedure Article, § 11-403."[22]

Rule 4-333(i) adds an additional requirement in a vacatur proceeding. It provides that, if the court enters an order vacating a judgment of conviction pursuant to CP § 8-301.1, the State's Attorney, within 30 days of the entry of the order, "shall either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

III.

Mootness

Before we address Mr. Lee's contention that his rights as a victim's representative were violated, we must address whether his appeal is properly before us. Mr. Syed contends that it is not, asserting that the State's entry of a nol pros after Mr. Lee filed his appeal rendered the appeal moot, and therefore, we should dismiss the appeal.

"Generally, a case is moot if no controversy exists between the parties or 'when the court can no longer fashion an effective remedy.'" *D.L. v. Sheppard Pratt Health Sys.*,

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[22] CP § 11-403(b) provides that, in a sentencing or disposition hearing, which includes the alteration of a sentence, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition." In CP § 11-403(a), "disposition" is referred to in connection with a "juvenile court proceeding."

Inc., 465 Md. 339, 351–52 (2019) (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006)). "It is well settled that '[a]ppellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course.'" *Cottman v. State*, 395 Md. 729, 744 (2006) (quoting *State v. Ficker*, 266 Md. 500, 506–07 (1972)). "The test of mootness is whether, when it is before the court, a case presents a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy." *Adkins v. State*, 324 Md. 641, 646 (1991). "In other words, 'mootness prevents review of an issue only when the court can no longer fashion an effective remedy.'" *Tallant v. State*, 254 Md. App. 665, 682–83 (2022) (quoting *Hawkes v. State*, 433 Md. 105, 130 (2013)) (cleaned up). *Accord Md. Tobacco Growers' Ass'n v. Md. Tobacco Auth.*, 267 Md. 20, 25–26 (1972) ("[W]hen the chronology of a case makes it apparent that nothing [the court] could do could undo or remedy that which has already occurred," then "the case must be dismissed as moot.").

Mr. Lee contends that the State's entry of a nol pros did not make this appeal moot. He asserts that this Court can provide him with "an effective, tangible form of relief," namely, "a redo of the vacatur hearing with the proper procedures and safeguards." He argues that the entry of the nolle prosequi did "not moot the right to a compliant hearing because the State had no authority to [nol pros] but for the deficient vacatur hearing," and "once this Court took jurisdiction of this appeal, any actions that would interfere with appellate adjudication were invalid."

The State similarly contends that this appeal is not moot. It argues that a valid vacatur hearing was a prerequisite to the ability to enter a nolle prosequi, and because it was entered "in the wake of the defective vacatur hearing," the nol pros was a legal nullity.

Mr. Syed contends that this appeal is moot "[b]ecause the underlying case was ended by the entry of a nolle prosequi subsequent to the filing of the notice of appeal," and "following the State's dismissal of the charges against [him]," this Court can provide Mr. Lee with "no effective relief." He argues that "[i]t is uncontroverted that the State acted lawfully in entering the nolle prosequi," and because Mr. Lee cannot challenge that action on appeal, the dismissal of the charges is not subject to appellate review.

It is this latter contention that is critical to the mootness issue, i.e., whether the State "acted lawfully in entering the nolle prosequi." To assess whether the entry of the nol pros here rendered this appeal moot, we consider the nature and effect of a nol pros, both generally and in this case.

A nolle prosequi is "an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *State v. Huntley*, 411 Md. 288, 291 n.4 (2009) (citing *Ward v. State*, 290 Md. 76, 83 (1981)). *Accord* CP § 1-101(k) (defining "nolle prosequi" as "a formal entry on the record by the State that declares the State's intention not to prosecute a charge"). Maryland Rule 4-247(a) provides that "[t]he State's Attorney may terminate a prosecution on a charge and dismiss the charge by entering a nolle prosequi on the record in open court."

The entry of a nolle prosequi eliminates the charge, leaving the defendant in the position he would have been in if he had never been charged and convicted. *See Blackston*

v. State, 93 Md. App. 567, 570 (1992) (When the State entered a nolle prosequi of charges, "it was as if the charges had never existed."), *cert. denied*, 329 Md. 336 (1993). *Accord Curley v. State*, 299 Md. 449, 460 (1984) ("Normally the effect of a nol pros is as if the charge had never been brought in the first place."). Upon entry of a nol pros, "the matter is 'terminated' at that time; and the accused may be proceeded against for the same offense only under a new or different charging document or count." *State v. Moulden*, 292 Md. 666, 673 (1982) (quoting *Barrett v. State*, 155 Md. 636, 637–38 (1928)). *Accord In re Darren M.*, 358 Md. 104, 112 (2000) (nol pros "is not an acquittal or pardon from the underlying conduct that served as the basis of the original charges").[23]

As indicated, Mr. Syed contends that, based on the entry of a nol pros on October 11, 2022, the case was ended, there is nothing for this Court to review, and this case is moot. Under typical circumstances, Mr. Syed would be correct, and the State's entry of a nol pros of the charges would end the case against the defendant and render an appeal of prior court proceedings on those charges moot. *See Mitchell v. State*, 369 P.3d 299, 307 (Idaho 2016) (when charges were dismissed, the appeal by the victim asserting that his rights were violated was moot); *S.K. v. State*, 881 So. 2d 1209, 1212 n.6 (Fla. Dist. Ct. App. 2004) (when nol pros was entered, appeal by victim's representatives alleging that their rights were violated was moot).

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[23] If the nol pros is entered after trial has begun, however, jeopardy attaches, and a subsequent prosecution on the same offense would violate principles of double jeopardy. *See Ward*, 290 Md. at 97. *Accord Boone v. State*, 3 Md. App. 11, 25–26 ("If entered without the consent of the defendant after trial has begun, jeopardy attaches because it operates as an acquittal."), *cert. denied*, 393 U.S. 872 (1968).

In this case, however, Mr. Lee contends that the nol pros was invalid and a nullity, and therefore, it did not render his appeal moot. For the reasons set forth below, we agree that, under the unique circumstances of this case, the nol pros was void, and therefore, it was a nullity.

As a general rule, the State's Attorney has broad discretion, free from judicial control, to enter a nolle prosequi. *State v. Simms*, 456 Md. 551, 561 (2017); *Ward*, 290 Md. at 83. This authority, however, is not unfettered. The Supreme Court of Maryland has made clear that there are exceptions and boundaries to the State's discretion. *Simms*, 456 Md. at 562. *Accord Hook v. State*, 315 Md. 25, 35–36 (1989) (The State's power to nol pros charges is "not absolute" or "without restraint."); *Ward*, 290 Md. at 83 n.6 ("There is authority . . . suggesting that the court may or may not permit the entry of the nolle prosequi in order to prevent injustice.").

The Supreme Court, in several circumstances, has limited the State's power to enter a nol pros to prevent injustice. In *Curley*, 299 Md. at 462, the Supreme Court held that, where the State enters a nol pros that has the purpose or necessary effect of circumventing the defendant's right to a trial within the 180-day time limit ("the *Hicks* rule"),[24] that nol pros is treated as a nullity for purposes of the *Hicks* rule, and if the State files new charges, the 180-day period for trial is calculated based upon the initial prosecution, rather than beginning with the second prosecution. *Accord Huntley*, 411 Md. at 293 (when circumvention of the *Hicks* rule is "(1) the purpose of the State's nol pros, or (2) the

[24] *State v. Hicks*, 285 Md. 310 (1979).

necessary effect of its entry," the 180-day period for trial "begins with the triggering event under the initial prosecution").

Another limit to the State's authority to enter a nol pros is in the situation where "entry of a nol pros undermines a fair trial." *Simms*, 456 Md. at 562. The concept of fundamental fairness "requires that the entry of a nol pros conform[] to 'the rudimentary demands of fair procedure' and cannot violate 'the civilized standards for [a] fair and impartial trial.'" *Id.* (quoting *Hook*, 315 Md. at 41–42).

In *Hook*, 315 Md. at 32–33, the defendant was on trial for first-degree and second-degree murder. Hook confessed that he shot the victims, but he presented an intoxication defense, which, if accepted, would have downgraded the first-degree murder charge to second-degree murder. *Id.* at 29, 38, 41–42. At the close of its case, the State, over Hook's objection, entered a nolle prosequi on the second-degree murder count. *Id.* at 37. The Supreme Court reversed Hook's conviction, stating:

> When the defendant is plainly guilty of some offense, and the evidence is legally sufficient for the trier of fact to convict him of either the greater offense or a lesser included offense, it is fundamentally unfair under Maryland common law for the State, over the defendant's objection, to nol pros the lesser included offense. . . . In short, it is simply offensive to fundamental fairness, in such circumstances, to deprive the trier of fact, over the defendant's objection, of the third option of convicting the defendant of a lesser included offense.

Id. at 43–44. The Court held that the "exceptional circumstances" in that case "present[ed] a rare occasion calling for a tempering of the broad authority vested in a State's Attorney to terminate a prosecution by a nolle prosequi" because the State's use of the nol pros was "inconsistent with the rudimentary demands of fair procedure." *Id.* at 41–42.

In *Simms*, 456 Md. at 575–76, the Court addressed another limit to the State's authority to nol pros charges. In that case, the defendant appealed his convictions, arguing that the evidence was insufficient to support the convictions. *Id.* at 569. While the appeal was pending, the State entered a nolle prosequi of the charges. *Id.* at 555. As in this case, the State argued that Mr. Simms' appeal was then moot. *Id.* The Supreme Court addressed the appeal on its merits, holding that the State did not have the authority to enter a nol pros, and it was "simply a nullity, 'improper' and therefore 'ineffective.'" *Id.* at 576 (quoting *Friend v. State*, 175 Md. 352, 356 (1938)).

The primary basis for the Court's decision in *Simms* was that "the State does not have the authority to enter a nol pros after a final judgment has been entered against a defendant in a criminal case." *Id.* at 575. That rationale does not apply in this case. Once the circuit court vacated Mr. Syed's convictions, the ruling, although a final judgment, left Mr. Syed with no final judgment of conviction.

The *Simms* Court, however, went on to discuss another reason that the State did not have authority in that case to enter a nol pros. The Court stated: "Once a case reaches final judgment in a proceeding, and a party appeals that judgment, the issue 'comes within the exclusive jurisdiction of the appellate court.'" *Id.* at 576 (quoting *Irvin v. State*, 276 Md. 168, 172–73 (1975)). The Court held that the State lacked the authority to nol pros "to alter the final judgment *or* to eliminate the appellate process initiated by Mr. Simms." *Id.* at 578 (emphasis added). "Because Mr. Simms appealed his conviction and sentence, the trial court had no jurisdiction to alter the conviction or sentence by relying on the State's nol pros authority." *Id.* at 576. The Court held that the State could not attempt "an end run

around the appellate process" by seeking to erase a conviction and sentence, and therefore, "the nol pros entered in the trial court as to the charge underlying the conviction and sentence was simply a nullity, 'improper' and therefore 'ineffective.'" *Id.* (quoting *Friend*, 175 Md. at 356).[25]

These cases stand for the proposition that the State does not have unlimited authority to nol pros a case. Rather, the courts will temper the State's authority in exceptional circumstances, such as where it violates fundamental fairness, and in at least some circumstances, it circumvents the right to appeal.

Although *Simms*, 456 Md. at 576, discussed the impropriety of the State attempting "an end run around the appellate process" by entering a nol pros after an appeal was filed, that case involved an appeal from a judgment of conviction, which this case does not. Other jurisdictions, however, have held that, even in a situation not involving a final judgment of conviction, the prosecution cannot enter a nol pros while an appeal is pending, and a nol pros entered in that circumstance is invalid.

In *Sanders v. State*, 869 S.E.2d 411, 415 (Ga. 2022), the defendant was indicted for murder and other offenses. The trial court denied her motion to dismiss the indictment, and she appealed. *Id.* at 416. While the case was pending on appeal, the State reindicted

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[25] The Supreme Court noted in *State v. Simms*, 456 Md. 551, 568 (2017), that, in *Hooper v. State*, 293 Md. 162 (1982), it previously addressed a situation where the State nol prossed the case while it was on appeal from the dismissal of indictments against the defendants based on its filing of new charges. The State then sought to withdraw its entry of a nol pros, but the Court held that the State did not have such authority. *Hooper*, 293 Md. at 171. The *Simms* Court stated that *Hooper* was inapposite because the procedural posture of that case was different, and the sole issue on appeal was the authority of the State to withdraw the entry of a nol pros. *Simms*, 456 Md. at 568–69.

Sanders, and the court then granted the State's motion to nol pros the indictment pending appeal. *Id.* The Supreme Court of Georgia rejected the argument that the entry of the nol pros mooted Sanders' appeal. *Id.* at 417. It held that the nol pros "was a nullity" because "[a] notice of appeal generally divests the trial court of jurisdiction to alter the judgment or order that is being appealed," and in that case, "Sanders' notice of appeal deprived the trial court of the authority to enter an order of nolle prosequi" on the indictment "while th[e] appeal was pending." *Id.* at 416–17.

In *Commonwealth v. Hudson*, 92 A.3d 1235, 1237 (Pa. Super.), *appeal denied*, 106 A.3d 724 (Pa. 2014), the Commonwealth appealed from an order granting Hudson's pretrial motion to suppress. After the appeal was filed, the Commonwealth requested the entry of "a voluntary nolle prosequi *with prejudice*" on Hudson's charges, which the court granted. *Id.* The Superior Court of Pennsylvania declined to quash the Commonwealth's appeal, noting that the nol pros was entered "*after* the appeal was filed." *Id.* at 1240 (emphasis in original). Because the trial court lacked the "authority to proceed any further due to the pending appeal," the "filing of the nolle prosequi and the subsequent order [entering the nol pros] were nullities." *Id.* at 1241.

At first glance, *Sanders* and *Hudson* support Mr. Lee's argument that the State's nol pros, entered after the appeal was noted, was a nullity. In Maryland, however, unlike the above cases, trial courts "are not stripped of their jurisdiction to take post-judgment action simply because an appeal is pending from that judgment." *Cotman v. State*, 395 Md. 729, 740 (2006). "[A]bsent a stay required by law, or one obtained from an appellate court,"

the trial court "has the authority to exercise the 'fundamental jurisdiction' which it possesses." *Id.* at 740–41 (quoting *State v. Peterson*, 315 Md. 73, 81 (1989)).

The court may not, however, exercise that discretion "in a manner that affects either the subject matter of the appeal or the appellate proceeding itself—that, in effect, precludes or hampers the appellate court from acting on the matter before it." *Jackson v. State*, 358 Md. 612, 620 (2000). *Accord Peterson*, 315 Md. at 82 n.3 ("a trial court ordinarily should not proceed with a hearing in the circumstances here, thereby mooting an issue before an appellate court"). If a trial court does interfere with the proceedings on appeal, however, it "'may be subject to reversal on appeal, but it is not void *ab initio* for lack of jurisdiction to enter it.'" *Cottman*, 395 Md. at 742 (quoting *Jackson*, 358 Md. at 620).

In *Cottman*, 395 Md. at 736–37, after the defendant was convicted and his appeal was pending, the circuit court granted him a new trial. The Supreme Court determined that this action did not interfere with the subject matter of the appeal, but even if it did, it was not void. *Id.* at 741–42. The grant of the new trial eliminated the judgment of conviction, there was no longer a judgment for the Appellate Court to review, and the appeal was moot. *Id.* at 743.[26]

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[26] Although the Supreme Court's opinion in *Simms*, 456 Md. at 576, expressed concern about the fairness of the entry of a nol pros while an appeal was pending, holding that the nol pros in that case was a nullity when it was entered while an appeal was pending from a final judgment of conviction, the Court recently stated that it did not read *Simms* "as a retreat from those cases that have discussed a circuit court's continuing fundamental jurisdiction during the pendency of an appeal." *State v. Thomas*, 465 Md. 288, 300 n.9 (2019).

Thus, in the ordinary case, the noting of an appeal would not deprive the State from entering a nolle prosequi. This, however, is not an ordinary case.

As indicated, the circuit court granted the motion to vacate on September 19, 2022. Based on Rule 4-333(i), the State had 30 days, i.e., until October 19, 2022, to "either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count." On September 28, 2022, Mr. Lee filed a notice of appeal.

Mr. Lee appeared to anticipate the possibility that the State would enter a nolle prosequi of the vacated charges prior to having his appeal heard by this Court. The day after he filed his appeal, Mr. Lee filed, in the circuit court, a motion to stay further proceedings "to avoid irreparable prejudice to . . . [his] right to appeal." On the following Wednesday afternoon, October 5, 2022, after no ruling had been issued in that court, Mr. Lee filed a motion to stay in this Court.[27] On Thursday, October 6, 2022, Mr. Syed filed in this Court a notice of intent to respond to the motion to stay, which would be due on Thursday, October 13, 2022.[28] At 8:55 a.m. on Tuesday, October 11, 2022, the State entered a nol pros of Mr. Syed's vacated charges. The court stated that the nol pros was "entered."

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[27] As indicated, the circuit court had not ruled on Mr. Lee's motion to stay at that point, and it did not do so until after the State entered a nol pros of the charges, at which time it denied the motion, stating that the State's nol pros rendered the motion moot.

[28] The motion to stay was filed on October 5, 2022, and a copy of the motion was served on the parties that same day. Thus, because October 10, 2022, was a court holiday, a response to the motion was due by Thursday, October 13, 2022. *See* Md. Rule 8-431(b); Md. Rule 1-203(a).

The timing of the entry of the nol pros is important. It was entered soon after the filing of the motion to stay in this Court, on the morning of the third business day after Mr. Lee filed the motion. At that point, there were only two days before the response to the motion to stay was due, after which this Court potentially could have granted the motion to stay. The nol pros was filed with eight days still remaining before the 30-day time period provided by Rule 4-333(i) required the State to "either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

Under these circumstances, we conclude that the nol pros was entered with the purpose or "necessary effect" of preventing Mr. Lee from obtaining a ruling on appeal regarding whether his rights as a victim's representative were violated. *See Curley*, 299 Md. at 462; *Simms*, 456 Md. at 576. This action conflicted with "the State's interest in procuring justice," which requires it "to ensure that the constitutional rights of crime victims are honored and protected." *State v. Casey*, 44 P.3d 756, 764 (Utah 2022). By entering a nol pros while a motion to stay was pending, and while the State still had more than a week before Rule 4-333(i) required action, the State violated the requirement that the entry of a nol pros conform to "the rudimentary demands of fair procedure," *see Hook*, 315 Md. at 42, and it resulted in an injustice to Mr. Lee. Allowing a nol pros in this circumstance gives the State a mechanism to insulate a defective proceeding from appellate review, and it prevents victims from receiving the rights to which they are entitled.

To be sure, as Mr. Syed points out, the prior circumstances tempering the authority of the State's Attorney to nol pros have involved injustice to the defendant, and the injustice here is not to the defendant, but to Mr. Lee, the victim's representative. Nevertheless, the

State of Maryland has given constitutional and statutory rights to crime victims, and the State's Attorney should not be allowed to thwart those rights in the way that happened in this case. The nol pros entered under the circumstances of this case violated Mr. Lee's right to be treated with dignity and respect. *See* Md. Const., Decl. of Rts., art. 47(a); CP § 11-1002(b)(1).

Under the unique facts and circumstances of this case, where the State entered a nol pros two days before the response to the motion to stay was due, the deadline for the State to "either enter a *nolle prosequi* of the vacated count or take other appropriate action," Md. Rule 4-333(i), was eight days away, and permitting the entry of the nol pros would result in injustice to the victim, we conclude that exceptional circumstances exist to temper the authority of the State to enter a nol pros. Accordingly, we hold that the nol pros was void, and the circuit court erred in accepting the nol pros at the court proceeding on October 11, 2022.[29]

Because the nol pros was void, it was a nullity, and it does not render this appeal moot. Accordingly, we proceed to address the merits of the appeal, i.e., Mr. Lee's claims that his rights to notice, to attend, and to be heard were violated.

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[29] We recognize that Article 47(c) of the Maryland Declaration of Rights states: "Nothing in this Article . . . authorizes a victim of crime to take any action to stay a criminal justice proceeding." It is not clear, however, that a prosecutor's action in entering a nol pros is a "criminal justice proceeding." *See Barnett v. Antonacci*, 122 So. 3d 400, 404-06 (Fla. Dist. Ct. App. 2013) (a decision to nol pros a case is not a stage of a criminal proceeding within the constitutional provision relating to rights of crime victims), *rev. denied*, 139 So. 3d 884 (Fla. 2014). By entering a nol pros before the response to the motion to stay was filed and this Court made a ruling on the motion, the State prevented this Court from deciding whether a stay could be granted to prevent the nol pros.

IV.

Right to Notice

Mr. Lee contends that the State violated his right to notice in several ways. First, he argues that the State was "woefully deficient in notifying [him] before moving to vacate," asserting that, although vacatur had been "in the works for nearly a year," the State first notified him of its motion to vacate on September 12, 2022, two days before filing the motion on September 14, 2022. Even then, it "disclosed no relevant details and did not tell Mr. Lee that there would be a hearing." Second, he contends that he was "excluded from the *ex parte* proceeding held on Friday, September 16," and he did not even know about it until the vacatur hearing. Third, he argues that the State notified him on Friday, September 16, 2022, that there would be an "in-person hearing" on Monday, September 19, 2022, advising that he could watch via Zoom, but not advising that he had a right to participate. He argues that this did not constitute reasonable notice, and "he could not travel cross-country on such short notice."

The State agrees that Mr. Lee did not receive sufficient notice of the Monday, September 19, 2022, vacatur hearing, "which led to the denial of his right to attend the hearing in person, as contemplated by law," and "unfairly compromised his ability to be heard on the impact of the vacatur decision on him and the rest of the victim's family." It asserts that "Friday notice of a Monday hearing to a victim representative known to be in California was not reasonably calculated to afford [Mr.] Lee his right to attend the vacatur hearing in person."

Mr. Syed contends that "the State's victim notification complied with the applicable constitutional provisions, statutes, and rules." He argues that, although it was not required to do so, the State advised Mr. Lee of its intent to file the vacatur motion, emailed a draft of the motion, and advised that there would be a hearing. It notified Mr. Lee as soon as practicable after a hearing was scheduled, as required by the statute and rule. Mr. Syed asserts that the State complied with the notice requirement "by calling, emailing, and texting [Mr. Lee] to notify him of the hearing, the date, time, and location, and facilitating his attendance by providing a Zoom link."

As indicated, CP § 8-301.1(d)(1) addresses victims' rights to notice in vacatur proceedings, as follows: "Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article." CP § 11-104(f)(1) provides:

> (f)(1) Unless provided by the MDEC system, the prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11-402 of this title if:
>
> (i) prior notice is practicable; and
>
> (ii) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section.

CP § 11-503(b) provides that, after conviction and sentencing, "the State's Attorney shall notify the victim or victim's representative of a subsequent proceeding in accordance with § 11-104(f) of this title" if the victim or victim's representative submits a notification request form. A "subsequent proceeding" includes, among other things, "a hearing on a

request to have a sentence modified or vacated under the Maryland Rules" and "any other postsentencing court proceeding." CP § 11-503(a)(2), (7).[30]

Maryland Rule 4-333 further provides:

> Pursuant to Code, Criminal Procedure Article, § 8-301.1(d), the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing.

Md. Rule 4-333(g)(2). If "a victim or victim's representative" is "entitled to notice" pursuant to Rule 4-333(g) and "is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1).

With that background, we will address Mr. Lee's three claims of inadequate notice in this case.

A.

Filing of Motion to Vacate

Mr. Lee first contends that the State was "woefully deficient" in notifying him that it would be filing a motion to vacate. He cites no authority, however, that supports the proposition that the State is required to give notice of motions that it is filing. Although it

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[30] As discussed in more detail, *infra*, CP § 8-301.1(d)(2) provides: "A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article." CP § 11-102(a) provides: "If practicable, a victim or victim's representative who has filed a notification request form under § 11-104 of this subtitle has the right to attend any proceeding in which the right to appear has been granted to a defendant."

may have been good practice to have given more notice in that regard, the statutes require notice only of court proceedings, not the filing of a motion.

B.

Chambers Discussion

Mr. Lee's next claim is that the State did not give him notice of the Friday, September 16, 2022, chambers discussion. He argues that this hearing violated the First Amendment to the United States Constitution and the "law that court hearings be open to the public." As we have noted, however, the issues in this appeal are limited to whether Mr. Lee's rights as a victim's representative were violated. In that context, he cites no authority in support of the proposition that the State was required to give him notice of this event.

This Court has not addressed whether a victim or victim's representative has a right to notice prior to an off-the-record chambers conference. In *Brown v. State*, 272 Md. 450, 479–80 (1974), however, the Supreme Court held that a defendant does not have the right to attend such a conference. The Court explained:

> We are fully cognizant of the necessity of conferences between the court and counsel—either before or during a trial—for the purpose of discussing scheduling, other collateral matters of procedure, to hear arguments of law on evidentiary rulings, to confer on proposed instructions to the jury, and the like. . . . [S]uch conferences have not been held to be a part of the trial. To require that all such conferences be conducted in open court, or that the defendant be present in chambers, or at a bench conference, on each occasion would create administrative burdens, diminish the decorum of the proceedings, and in many instances involve security risks—none of which can be balanced by any gain from the defendant's presence.

In *State v. Damato-Kushel*, 173 A.3d 357, 366 (Conn. 2017), the Supreme Court of Connecticut held that a victim did not have the right to attend an off-the-record, in chambers conference pursuant to a constitutional right to attend "court proceedings the accused has the right to attend." Noting that the conference in that case was "conducted informally and off the record," the court stated that it was hesitant to call such a conference a "court proceeding." *Id.* It ultimately concluded "that the victim has no right to attend off-the-record, in-chambers disposition conferences because the defendant herself has no right to do so." *Id.*

Although these cases involve the right to attend, a similar analysis would apply to notice because the notice requirements facilitate the right to attend. In Maryland, constitutional and statutory provisions address the victim's right to notice in the following contexts: a "criminal justice proceeding, as those rights are implemented," Md. Const., Decl. of Rts., art. 47(b); a hearing on a motion pursuant to CP § 8-301.1; each "court proceeding in the case," if prior notice is practicable, CP § 11-104(f)(1); "trial court proceedings" and "postsentencing proceedings," CP § 11-1002(b)(3); and a hearing on a request to have a sentence modified or vacated, CP § 11-503(a)(2),(7). We construe those provisions to refer to a formal, on-the-record court proceeding. We hold that a victim's rights to notice, and to attend, court proceedings do not apply to off-the-record, in-chambers conferences. We note, however, that, if there is an in-chambers conference, the judge should put on the record what was discussed in chambers. *See Poole v. State*, 77 Md. App. 105, 120 (1988) (at the conclusion of a chambers conference, the court should

announce on the record, "at a very minimum," what was agreed to during the discussion), *aff'd*, 321 Md. 482 (1991).

C.

Vacatur Hearing

With respect to the Monday, September 19, 2022, on-the-record hearing on the motion to vacate, there is no dispute that the State was required to give Mr. Lee notice of this hearing pursuant to CP § 8-301.1(d)(1). Although the record does not contain a victim notification request form, and at oral argument, counsel for Mr. Lee stated that he had not been able to ascertain whether such a form had been filed, this Court made clear in *Antoine*, 245 Md. App. at 545–46, that a failure to file the statutory notification request form was "no barrier" to asserting a violation of a victim's rights if the parties and the court were aware of the victim's interest in being heard. That clearly was the case here, and Mr. Syed does not argue that any failure to file a victim notification request form precludes review of Mr. Lee's claims on appeal.

There also is no dispute that the prosecutor gave Mr. Lee notice of the hearing. The question here is whether the State's notice to Mr. Lee was sufficient under the statute and Rule 4-333. This presents a question of law, which we review *de novo*. *See Wheeling v. Selene Fin. LP*, 473 Md. 356, 373 (2021) ("Where questions of law and statutory interpretation are presented, this Court reviews them *de novo*, without deference to . . . the circuit court's . . . analysis."); *Otto v. State*, 459 Md. 423, 446 (2018) ("Interpretation of the Maryland Rules presents a question of law, reviewed *de novo* to ascertain whether the trial court was legally correct in its rulings."); *Bray v. Aberdeen Police Dep't*, 190 Md.

App. 414, 437 ("Whether the notice provided to appellant was sufficient was purely a question of law."), *cert. denied*, 415 Md. 39 (2010).

The record reflects that the prosecutor, Ms. Feldman, sent an email to Mr. Lee on Friday afternoon, September 16, 2022, right after the chambers hearing, which the parties represent is when the Monday, September 19 hearing date was set. As indicated, notice clearly was given. The question is whether that notice complied with the intent of the statute and the Rule.

Although the parties focus on the actions of the prosecutor, our review as an appellate court is on the rulings and actions of the trial court. *Walls v. State*, 228 Md. App. 646, 668 (2016) ("Our function is not to review conduct of counsel, the parties, or witnesses for error. We focus on the rulings of the court, some of which may be made in response to conduct of the lawyers, parties, or witnesses."). Thus, the question we address is not whether the prosecutor acted as soon as possible in providing notice, but whether the circuit court erred in determining that the notice requirement had been satisfied before proceeding with the hearing. We conclude that the court erred in making that finding here.

CP § 11-103(e) "makes courts responsible for ensuring that victims' rights are honored, and authorizes them to fashion appropriate remedies if not." *Antoine*, 245 Md. App. at 533. Amendments to this statute enacted in 2013, *see* 2013 Md. Laws ch. 363, expanded the ability of courts to give relief to victims deprived of their rights. The statute provides, in part, as follows:

> (e)(1) In any court proceeding involving a crime against a victim, the court shall ensure that the victim is in fact afforded the rights provided to victims by law.

> (2) If a court finds that a victim's right was not considered or was denied, the court may grant the victim relief provided the remedy does not violate the constitutional right of a defendant or child respondent to be free from double jeopardy.
>
> (3) A court may not provide a remedy that modifies a sentence of incarceration of a defendant or a commitment of a child respondent unless the victim requests relief from a violation of the victim's right within 30 days of the alleged violation.

CP § 11-103(e)(1)–(3).

Rule 4-333(h)(1) also indicates that the court must ensure that victims' rights are honored. It provides that, "[i]f the defendant or a victim or victim's representative entitled to notice under section (g) of this Rule is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1). Thus, the Rule envisions that, when the victim or victim's representative is not present, the State must advise of its efforts to notify the victim, and the court determines whether the notice requirements have been satisfied.

Here, when Mr. Lee was not present for the hearing, the court asked the State about its efforts to notify the victim. The prosecutor advised that, on Friday, September 16, 2022, the State emailed Mr. Lee with the time and date of the hearing on Monday, one business day later. The email stated that the hearing would be in person, but Mr. Lee and his family could watch via Zoom. Mr. Lee did not respond to that email, so the State reached out again on Sunday, September 18, 2022, and Mr. Lee indicated that he would watch the proceeding on Zoom.

Counsel for Mr. Lee advised the court at the beginning of the hearing that Mr. Lee wanted to be there in person, and counsel requested a postponement of seven days so that Mr. Lee could arrange to take leave from work and fly from California to be present in the courtroom, in the same way that the court and the parties were present. The court denied the requested postponement and proceeded without Mr. Lee in the courtroom. He was permitted to give a statement on Zoom, with only 30 minutes allowed for him to go home from work to get on Zoom and prepare what he wanted to say.

In determining whether the court erred in finding that the notice given was sufficient under CP § 8-301.1(d) and Rule 4-333, we must interpret the word "notice." In construing the statute, we note well-settled rules of statutory construction:

> The cardinal rule of statutory interpretation is to ascertain and effectuate the real and actual intent of the Legislature. A court's primary goal in interpreting statutory language is to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by the statutory provision under scrutiny.
>
> To ascertain the intent of the General Assembly, we begin with the normal, plain meaning of the statute. If the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to the legislative intent ends ordinarily and we apply the statute as written without resort to other rules of construction. We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with "forced or subtle interpretations" that limit or extend its application.
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> We, however, do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute's plain language to the isolated section alone. Rather, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute. We presume that the Legislature intends its enactments to operate together as a consistent and harmonious body of law, and, thus, we seek to reconcile and harmonize the parts of a statute, to the extent possible consistent with the statute's object and scope.

> Where the words of a statute are ambiguous and subject to more than one reasonable interpretation, or where the words are clear and unambiguous when viewed in isolation, but become ambiguous when read as part of a larger statutory scheme, a court must resolve the ambiguity by searching for legislative intent in other indicia, including the history of the legislation or other relevant sources intrinsic and extrinsic to the legislative process. In resolving ambiguities, a court considers the structure of the statute, how it relates to other laws, its general purpose and relative rationality and legal effect of various competing constructions.
>
> In every case, the statute must be given a reasonable interpretation, not one that is absurd, illogical or incompatible with common sense.

State v. Bey, 452 Md. 255, 265–66 (2017). Similarly, "'[t]o interpret rules of procedure, we use the same canons and principles of construction used to interpret statutes.'" *Hoile*, 404 Md. at 608 (quoting *State ex rel. Lennon v. Strazzella*, 331 Md. 270, 274 (1993)).

Here, the circuit court stated that CP § 8-301.1 provides that "notice" must be given, not "reasonable notice." It is true that Maryland's statute, unlike other jurisdictions' victims' rights provisions, provides only for notice, *not* reasonable notice. *Compare* CP § 8-301.1(d)(1) ("[b]efore a hearing on a motion filed under this section, the victim or victim's representative shall be notified"), *with* 18 U.S.C. § 3771(a)(2) (granting crime victims "[t]he right to reasonable, accurate, and timely notice of any public court proceeding . . . involving the crime"), Cal Const, art. I, § 28(b)(7) (granting crime victims the right "[t]o reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present"), N.C. Gen. Stat. § 15A-830.5(b)(1) (granting crime victims "[t]he right, upon request, to reasonable, accurate, and timely notice of court proceedings of the accused"), *and* Neb. Rev. Stat. § 81-1848(1)(b) (granting crime victims the right "[t]o receive from

the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule").

Nevertheless, in determining the intended scope of the term "notice," which is not defined, we apply "'the language's natural and ordinary meaning, by considering the express and implied purpose of the statute, and by employing basic principles of common sense, the meaning these words intended to convey.'" *75-80 Properties, L.L.C. v. Rale, Inc.*, 470 Md. 598, 645 (2020) (quoting *Goff v. State*, 387 Md. 327, 344 (2005)). Thus, we must construe CP § 8-301.1(d) and Rule 4-333 in light of the constitutional and statutory mandate that crime victims "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process," Md. Const., Decl. of Rts., art. 47(a), CP § 11-1002(b)(1), as well as the legislative intent that a victim has the right to notice and to attend the vacatur hearing. Clearly, notice to a victim in California that there would be a hearing in Baltimore a minute later would not be sufficient to comply with the statutory objectives, a point which Mr. Syed's counsel conceded, appropriately, at oral argument. Similarly, the State's notice here, an email one business day before the hearing on Monday, September 19, 2022, was not sufficient to reasonably allow Mr. Lee, who lived

in California, to attend the proceedings, as was his right.[31] The court erred in finding that Mr. Lee received sufficient notice pursuant to CP § 8-301.1(d) and Rule 4-333.[32]

The dissent's conclusion that the notice given was sufficient is based on the conclusion that the notice was sufficient to allow Mr. Lee to appear at the vacatur hearing by Zoom, which was sufficient to satisfy Mr. Lee's right to attend the hearing. As discussed below, we disagree that requiring Mr. Lee to attend the hearing remotely, when he wanted to attend in person, satisfied Mr. Lee's right to attend the hearing.

V.

Right to Attend

As indicated, CP § 8-301.1(d)(2) addresses victims' rights to attend vacatur proceedings as follows: "A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article." CP § 11-102(a) provides: "If practicable, a victim or victim's representative who has filed a notification request form under § 11-104 of this subtitle has the right to attend any proceeding in which the right to appear has been granted to a defendant."

Based on these statutes, Mr. Syed agrees that Mr. Lee had the right to attend the Monday vacatur hearing. Mr. Syed asserts, however, that Mr. Lee's right to attend was

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[31] Ms. Feldman emailed Mr. Lee on Friday, September 16, 2022, but we do not know when he received the email. The record reflects only that he knew by Sunday afternoon, when he texted Ms. Feldman.

[32] The General Assembly may want to revisit the notice provisions in CP § 8-301.1, and other victims' rights statutes, to expressly provide that reasonable notice is required, to prevent what happened here from happening in other cases.

satisfied because Mr. Lee attended the hearing "via Zoom," and "attendance at hearings via Zoom is commonplace since the COVID pandemic."

Mr. Lee and the State argue that Mr. Lee's right to attend the vacatur hearing was not satisfied here. They argue that the vacatur statute envisions attendance in person, as opposed to Zoom, asserting: "Even after the experience of the COVID-19 pandemic, remote hearings are the exception, not the rule. And it was against the backdrop of open, in-court hearings that the General Assembly enacted the vacatur statute." As explained below, we agree that Mr. Lee's right to attend the vacatur hearing was violated.

To be sure, since the COVID-19 pandemic, we have all learned to adapt to Zoom and other virtual platforms, and we have conducted proceedings by Zoom, as necessary and desired. *See Tallant v. State*, 254 Md. App. 665, 688 n.17 (2022) ("Zoom is an online video platform, which has been used to facilitate remote hearings because some court hearings have not been able to be held in person due to the COVID-19 pandemic."). Indeed, for a period of time during the COVID-19 pandemic, proceeding by Zoom was necessary to allow courts to administer justice while at the same time protect the public health in this State.

This case, however, does not involve a virtual hearing due to COVID-19 health concerns. The vacatur hearing in this case was an in-person proceeding where everyone involved, except Mr. Lee, was present in person.

The parties have not cited, and our independent research has not revealed, any case directly addressing the issue presented here, i.e., whether a victim's right to attend a vacatur hearing means a right to attend in person or whether remote attendance satisfies that right.

The language of CP § 8-301.1 and the legislative history similarly do not shed light on the issue. We note, however, that CP § 8-301.1 was enacted in 2019, before the COVID-19 pandemic and the general acceptance and use of Zoom to conduct a wide range of court proceedings. Accordingly, we conclude that the intent of the General Assembly in giving crime victims the right to attend vacatur hearings was to give them the right to attend in person.

We recognize, however, that the lessons we learned during the pandemic about the availability of technology have value going forward, now that the COVID-19 risk is decreasing. Attendance by Zoom may be appropriate in some circumstances. That does not, however, take away from the value in attending a proceeding in person, when desired, particularly when all other individuals involved in the proceeding appear in person. Here, although § CP 11-102(a) provides that the victim "has the right to attend any proceeding in which the right to appear has been granted to a defendant," Mr. Syed was allowed to attend in person, but Mr. Lee was required to attend via Zoom.

In March 2022, with the COVID-19 risk decreasing, then-Chief Judge Getty issued an administrative order addressing the use of remote electronic participation in judicial proceedings. He noted specific rules of civil procedure that were "intended to take advantage of the technology that allows for reliable interactive communications to provide more efficient access to the courts without sacrificing the required fairness in judicial proceedings in circuit court civil proceedings." Administrative Order on the Implementation of Remote Electronic Judicial Proceedings at 1, ¶ 2 (March 28, 2022). We discuss two of those rules, which we find instructive in this case.

Rule 2-802(a), which addresses non-evidentiary proceedings in civil cases, provides that a court "**may permit or require** one or more participants or all participants to participate in a non-evidentiary proceeding by means of remote electronic participation," with some exceptions. (Emphasis added). Rule 2-803(a), by contrast, provides that a court, "on motion or on its own initiative, **may permit** one or more participants or all participants to participate in an evidentiary proceeding by means of remote electronic participation," under certain circumstances. (Emphasis added).

Although this is a criminal case, not a civil case, and there are no specific rules addressing remote proceedings in this type of proceeding, principles from these rules inform our analysis. The civil rules provide that, in both an evidentiary proceeding and a non-evidentiary proceeding, the court may permit, in some circumstances, a person to participate in a proceeding remotely. There certainly might be situations where a person would prefer to attend that way, due to travel distance, personal health, or other reasons, and utilizing technology to accommodate that preference, in appropriate circumstances, is valuable. In a civil evidentiary proceeding, however, the court does not have the authority to "require" a participant to participate via Zoom or other remote electronic proceeding.

We are of the view that, similar to the rule preventing a court from requiring a participant to participate remotely in an evidentiary proceeding in a civil case, a court is not permitted to *require* a victim, who has a right to attend a vacatur proceeding, to attend the proceeding remotely, in the situation where the defendant and other participants are permitted to attend in person. Nevertheless, that is what the court did here, in what indisputably was (or should have been) an evidentiary hearing.

If Mr. Lee wanted to attend the proceedings virtually, permitting him to do so would be fine. Mr. Lee advised through counsel, however, that he wanted to attend the hearing in person with the other participants, but he was not given sufficient notice to be able to do so. He asked for a postponement to be allowed to attend in person, but the court denied the request, despite there being no showing that it was necessary to hold the vacatur hearing that day, as opposed to granting Mr. Lee's request for a seven-day postponement. Under these circumstances, we conclude that the court erred and/or abused its discretion in failing to grant a postponement and in finding that Mr. Lee's attendance via Zoom satisfied his right, as a victim's representative, to attend the hearing.

In sum, we hold that in the circumstance where, as here, a crime victim or victim's representative conveys to the court a desire to attend a vacatur hearing in person, all other individuals involved in the case are permitted to attend in person, and there are no compelling reasons that require the victim to appear remotely, a court requiring the victim to attend the hearing remotely violates the victim's right to attend the proceeding. Allowing a victim entitled to attend a court proceeding to attend in person, when the victim makes that request and all other persons involved in the hearing appear in person, is consistent with the constitutional requirement that victims be treated with dignity and respect.

VI.

Right to Be Heard

Mr. Lee contends that the circuit court violated his right to be heard and to meaningfully participate in the hearing on the motion to vacate Mr. Syed's convictions.

He asserts that the court gave him "only 30 minutes' notice to race home, gather his thoughts without the input of counsel, and speak extemporaneously about his sister's murder—with no information about the evidentiary basis for vacatur." He also argues that the "court gave no consideration to Mr. Lee's statement; all indications are that it had already made its decision prior to the hearing."[33] Mr. Lee further contends that we should remand for a new vacatur hearing where he is "permitted to present evidence, call witnesses, and challenge the [S]tate's evidence and witnesses."

The State argues that Mr. Lee's right to be heard was violated because he was not given sufficient time to prepare a victim impact statement. It asserts that CP § 11-403(b) provides Mr. Lee with the right to give a statement. The State disagrees, however, that Mr. Lee has any right "to present evidence, call witnesses, and challenge the [S]tate's evidence and witnesses." It states that "[n]o such victim's rights exist in connection with the vacatur statute," noting that a victim is not a party to a criminal or juvenile proceeding. *See* CP § 11-103(b); Md. Rule 8-111(c).

Mr. Syed contends that, although CP § 8-301.1(d) provides the right to attend a vacatur hearing, it "does not provide the victim or victim's representative with the right to make a victim impact statement or to participate in any other way." He asserts that CP § 11-403 does not provide such a right because it applies only to a "sentencing or disposition

[33] In that regard, Mr. Lee points to the court's comments indicating that it was aware that the State and Mr. Syed had arranged a joint press conference, and he asserts that "the court apparently coordinated with Mr. Syed's correctional facility to ensure that he had his property and street clothes on hand." He asserts that his "statement was, at best, an empty ritual."

hearing," which is not implicated in a vacatur proceeding, which involves legal arguments as opposed to a discretionary sentencing decision.[34]

As indicated, CP § 8-301.1(d) provides that, in vacatur proceedings, victims have the right to "be notified" prior to the hearing, *see* CP § 8-301.1(d)(1), and they have "the right to attend" the hearing, *see* CP § 8-301.1(d)(2). The statute does not, however, provide for a right to be heard at the vacatur hearing.

In other sections of Title 11 of the Criminal Procedure Article, however, the General Assembly has provided the victim with the right to be heard. For example, CP § 11-402(a) and (d) provide that a presentence investigation shall include a victim impact statement, and the court shall consider the statement in determining the appropriate sentence. CP § 11-403(b) provides that, in a sentencing hearing or disposition hearing in a juvenile court proceeding, where a sentence is imposed or altered, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition." Where language is included providing for a right in one provision, but not in a related provision, it suggests "that the absence of comparable language . . . was by design." *Md.-Nat. Cap. Park & Plan. Comm'n v. Anderson*, 164 Md. App. 540, 577 (2005), *aff'd*, 395 Md. 172 (2006). *See also Harris v. State*, 353 Md. 596, 606 n.3 (1999) ("The General Assembly has created specific intent

[34] Mr. Syed further argues that, even if Mr. Lee had the right to participate, he did so via Zoom. We have already explained, *supra*, that his appearance via Zoom did not satisfy Mr. Lee's right to attend pursuant to CP § 8-301.1(d). To the extent a victim has a right to be heard at a hearing, the same analysis would apply.

crimes, using explicit language to indicate the required specific intent. It is evident that when the Legislature desires to create a specific intent crime, it knows how to do so.").

The legislative history of CP § 8-301.1 also indicates an intent not to include the right to be heard at a vacatur hearing. When enacting CP § 8-301.1, the General Assembly was alerted to concerns that the victim should have the right to be heard at a vacatur hearing. At a hearing before the House Judiciary Committee, multiple people testified that the victim should have, not only the right to attend such a hearing, but also the right to be heard. *See* Hearing on H.B. 874 Before the H. Comm. on the Judiciary, 2019 Leg., 439th Sess. (Feb. 26, 2019). And Scott Shellenberger, Baltimore County State's Attorney, proposed adding language to the bill to provide that the victim had a "right to be heard at the hearing." *See* E-mail from Scott Shellenberger, Balt. Cnty. State's Att'y, to Del. Erek Barron (Feb. 25, 2019) (attached as exhibit to Letter from Del. Erek Barron to Md. Gen. Assemb. H. Jud. Comm., H.B. 874, 2019 Leg., 439th Sess. (Feb. 25, 2019)). Moreover, the Maryland Judiciary opposed the bill, noting: "[T]he bill indicates that in addition to a right to notice, a victim has a right to attend a hearing but it is not clear under this legislation if the victim has a right to be heard at the hearing." Memorandum from Suzanne D. Pelz, Esq., Md. Jud. Conf., to Md. Gen. Assemb. H. Jud. Comm., H.B. 874, 2019 Leg., 439th Sess. (Feb. 20, 2019).

Despite this voiced concern regarding the lack of an express provision allowing the victim the right to be heard at a vacatur hearing, the General Assembly did not include a right for a victim to give a statement at a hearing on a motion to vacate a conviction, notwithstanding that such a right was included in other statutes. Although we may think it

advisable to allow the victim the right to be heard at a vacatur hearing, particularly where there is no one advocating for the conviction to be upheld, the statute, as written, does not provide that right.

Mr. Lee and the State contend that, despite the lack of language providing a right to be heard in CP § 8-301.1, another statute, CP § 11-403, provides the right to be heard at a hearing on a motion to vacate a conviction. We are not persuaded.

CP § 11-403(b) provides that, in a sentencing hearing, or disposition hearing in a juvenile court proceeding, where a sentence is imposed or altered, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition."[35] This statute permits a victim to address the court before the imposition of a sentence or a disposition in a juvenile court proceeding, either initially or when altering the sentence or disposition. *See Hoile*, 404 Md. at 605–06 (CP § 11-403 addresses victims' right to be heard at sentencing hearings); *Antoine*, 245

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[35] CP § 11-403 provides:

(a) In this section, "sentencing or disposition hearing" means a hearing at which the imposition of a sentence, disposition in a juvenile court proceeding, or alteration of a sentence or disposition in a juvenile court proceeding is considered.

(b) In the sentencing or disposition hearing the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition:

(1) at the request of the prosecuting attorney;

(2) at the request of the victim or the victim's representative; or

(3) if the victim has filed a notification request form under § 11-104 of this title.

Md. App. at 531 (CP § 11-403 "establishes the victim's right to address the court before the court imposes a sentence or other disposition.").

The imposition of a sentence is a discretionary decision, in which a relevant factor is the impact that the crime had on the victim. *See Medley v. State*, 386 Md. 3, 6 (2005) ("A sentencing judge has wide discretion in achieving the principal objectives of sentencing—punishment, deterrence, and rehabilitation."); *Ball v. State*, 347 Md. 156, 195 (1997) (At sentencing, "'trial judges must give appropriate consideration to the impact of crime upon the victims'; '[a]n important step towards accomplishing that task is to accept victim impact testimony wherever possible.'") (quoting *Cianos v. State*, 338 Md. 406, 413 (1995)), *cert. denied*, 522 U.S. 1082 (1998); *State v. Rodriguez*, 125 Md. App. 428, 442 (modification or reduction of a sentence is within the trial court's sound discretion), *cert. denied*, 354 Md. 573 (1999).

It certainly can be argued that the vacatur of a defendant's conviction is the ultimate alteration of a sentence, in the sense that it sets it aside. *See Walter v. Gunter*, 367 Md. 386, 395 n.8 (2002) ("Vacatur is . . . '[t]he act of annulling or setting aside. A rule or order by which a proceeding is vacated.'") (quoting *Vacatur*, *Black's Law Dictionary* (5th ed. 1979)). A hearing on a motion to vacate a conviction pursuant to CP § 8-301.1, however, does not involve a discretionary ruling regarding whether to alter a sentence. Rather, it is a proceeding after conviction and sentencing that seeks to vacate the judgment based on legal grounds. In this regard, a hearing on a motion to vacate a conviction pursuant to CP § 8-301.1 is similar to a motion for a new trial pursuant to CP §§ 6-105 and 6-106, a petition for post-conviction relief pursuant to the Uniform Postconviction Procedure Act, CP §§ 7-

101 to 7-301, a petition for a writ of actual innocence pursuant to CP § 8-301, and an appeal to this Court. In none of those proceedings is there statutory authority for the victim to have rights other than the right to notice and to attend, and victims generally do not speak at those proceedings.

If we were to hold that CP § 11-403(b) authorized a victim's right to be heard here, that would result in a huge shift in practice. We have not been given persuasive reasons to so hold.

Mr. Lee and the State point to Rule 4-333(h), which, after addressing the conduct of a vacatur hearing, includes the following: "**Cross reference:** For the right of a victim or victim's representative to address the court during a sentencing or disposition hearing, see Code, Criminal Procedure Article, § 11-403." This cross-reference, however, read in context with the statutory scheme, and in the absence of specific language in Rule 4-333 indicating that the victim has a right to be heard, suggests that it is listed as a comparison to victims' rights in sentencing hearings, where the victim does have the right to be heard. *See* Standing Committee on Rules of Practice and Procedure, *Two Hundred and First Report of the Standing Committee on Rules of Practice and Procedure*, at 17 (Sept. 12, 2019) (noting that the cross-reference was "included after section (h) to highlight the right of the victim or victim's representative to address the court during a sentencing or disposition hearing").

Mr. Lee argues that the Maryland Constitution gives victims rights, including the right "to be heard at a criminal justice proceeding, as these rights are implemented." Md. Const., Decl. of Rts., art. 47(b). The General Assembly, however, has implemented these

rights by giving victims and their representatives the right to be heard at sentencing proceedings, but not at a proceeding pursuant to CP § 8-301.1.

Accordingly, we hold that a victim or victim's representative does not have a *right* to be heard at a vacatur hearing. We note, however, that there is nothing preventing a court from giving a victim an opportunity to be heard at a vacatur hearing. Indeed, at the vacatur hearing in this case, Ms. Feldman stated that the SAO would not object "in any way to someone being present and participating if they wanted to," and the court permitted Mr. Lee to speak, albeit on Zoom. Although a victim does not have a statutory right to be heard, there are valid reasons to allow a victim that right in a vacatur hearing, and the court has discretion to permit a victim to address the court regarding the impact the court's decision will have on the victim and/or the victim's family.

VII.

Remedy

Having determined that Mr. Lee's rights to notice and to attend the vacatur hearing were violated, we turn to the appropriate remedy. As indicated, CP § 11-103(e)(2) and (3) provide that a court may grant a victim relief when the victim's rights were denied if the remedy does not violate the defendant's double jeopardy rights, and if the remedy modifies a sentence of incarceration, the victim requests relief within 30 days.

Here, Mr. Lee sought relief within 30 days by filing his notice of appeal. The remedy he seeks is to vacate the circuit court's order vacating Mr. Syed's convictions and sentence and order a new hearing on the State's motion to vacate the convictions, where his right to notice and to attend be honored. We can provide that remedy only if it does

not violate Mr. Syed's "constitutional right . . . to be free from double jeopardy." CP § 11-103(e)(2).

The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution provides that no person "shall . . . be subject for the same offence to be twice put in jeopardy of life or limb . . . ." U.S. Const. amend. V. "[D]ouble jeopardy invokes a number of distinct principles and prohibitions." *Moore v. State*, 198 Md. App. 655, 684 (2011). When dealing with a "phenomenon such as double jeopardy, it is indispensable at the outset to identify the particular species of double jeopardy being invoked." *Fields v. State*, 96 Md. App. 722, 725 (1993).

"The United States Constitution's Fifth Amendment Double Jeopardy Clause protects against three types of double jeopardy, derived from the 'three related common-law pleas' of autrefois acquit, autrefois convict, and pardon." *Antoine*, 245 Md. App. at 558 (quoting *United States v. Wilson*, 420 U.S. 332, 340 (1975)). The plea of autrefois acquit provides that "the State cannot reprosecute a defendant after an acquittal." *Scott v. State*, 454 Md. 146, 152 (2017). The pleas of autrefois convict and pardon provide that "a criminal defendant may not be prosecuted twice for the same offense after conviction and may not be punished multiple times for the same offense." *Giddins v. State*, 393 Md. 1, 25–26 (2006).

Mr. Syed does not contend, for good reason, that vacating the order vacating his convictions would violate his right against double jeopardy. As explained below, we conclude that returning this case for a new vacatur hearing does not violate Mr. Syed's constitutional protection against double jeopardy.

Ordering a new vacatur hearing would not result in a second prosecution after conviction or acquittal. The result of a new vacatur hearing will be to either reinstate the initial conviction or vacate it again. There would not be a second prosecution.

Ordering a new vacatur hearing would not result in a second prosecution after acquittal for another reason, i.e., the grant of the motion to vacate was not an acquittal. An acquittal requires "a resolution, correct or not, of some or all of the factual elements of the offense charged.'" *Kendall v. State*, 429 Md. 476, 479 (2012). A ruling constitutes an acquittal for double jeopardy purposes if the court "depended on an evaluation of facts bearing on whether the defendants were guilty of the crimes charged." *Id.* at 487.

Here, the court's grant of the motion to vacate was not an acquittal. The court's decision to vacate Mr. Syed's convictions was based solely on whether the State established grounds for vacating the convictions pursuant to CP § 8-301.1. The court did not purport to be resolving any factual question relating to the charges against Mr. Syed, including whether he was guilty or innocent of the offenses charged. Thus, the grant of the motion to vacate did not trigger the protection against double jeopardy.

Additionally, the State's entry of the nol pros was not an acquittal. It is well established that "a nolle prosequi is not an acquittal or pardon of the underlying offense and does not preclude a prosecution for the same offense under a different charging document or different count." *Ward*, 290 Md. at 84. "[T]here is nothing inherent in the nature of a nolle prosequi which causes its entry to operate as an acquittal of the underlying offense." *Id.* at 85. Accordingly, the violation of Mr. Lee's rights can be remedied without violating Mr. Syed's constitutional right to be free from double jeopardy.

VIII.

Conclusion

Because the court violated Mr. Lee's right to notice of, and his right to attend, the hearing on the State's motion to vacate, in violation of CP § 8-301.1(d), "we have the power and obligation to remedy that injury." *Antoine*, 245 Md. App. at 561. Therefore, we vacate the circuit court's order vacating Mr. Syed's convictions and sentence, which results in the reinstatement of the original convictions and sentence. We remand for a new, legally compliant, transparent hearing on the motion to vacate, where Mr. Lee is given notice of the hearing that is sufficient to allow him to attend in person, evidence supporting the motion to vacate is presented, and the court states its reasons in support of its decision.

Mr. Lee argues that, at the remand hearing, he should be "permitted to mount a credible challenge to the evidence supporting vacatur." To that end, he requests that this Court "appoint him as a limited-purpose party-in-interest," or alternatively, appoint the Attorney General's Office or other suitable entity, to challenge the evidence during a new hearing. That request is denied.

We will exercise our discretion to stay the effective date of the mandate for 60 days from the issuance of this opinion. That gives the parties time to assess how to proceed in response to this Court's decision.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED; CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID 50%

BY THE MAYOR & CITY COUNCIL OF BALTIMORE AND 50% BY ADNAN SYED.

Circuit Court for Baltimore City
Case No. 199103042

REPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1291

September Term, 2022

YOUNG LEE, AS VICTIM'S REPRESENTATIVE

v.

STATE OF MARYLAND, ET AL.

Wells, C.J.,
Graeff,
Berger,

JJ.

Dissenting Opinion by Berger, J.

Filed: March 28, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

I, respectfully, dissent. In my view, this appeal was rendered moot by the State's entry of a nol pros[1] following the grant of the State's vacatur motion. I disagree with the Majority that the nol pros was a legal nullity. Nonetheless, because this case presents issues that are likely to recur and evade review as well as matters of important public concern, I would exercise discretion to consider the merits. On the merits, I agree with the Majority's analysis in Part VI of the Majority Opinion, in which the Majority held that Mr. Lee had no right to be heard at the vacatur hearing. Where I part ways with the Majority on the merits, however, is with respect to the notice provided to Mr. Lee as well as his right to attend. In my view, the timing of the notice in relation to the hearing should not be considered in a vacuum, but rather, in the context of whether the notice was adequate to enable the victim or victim's representative to attend. I would not find a violation of the victims' rights statute in this unique case when Mr. Lee was notified -- albeit one business day before the vacatur hearing -- and ultimately attended the vacatur proceeding electronically.

I. Mootness

I take no issue with the Majority's articulation of the mootness standard, *i.e.*, that a case is generally moot if no controversy exists between the parties or when the court can

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[1] "A nolle prosequi, or nol pros, is an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *Huntley v. State*, 411 Md. 288, 291 n.4 (2009). "[W]hile a nolle prosequi discharges the defendant on the charging document or count which was nolle prossed, and while it is a bar to any further prosecution under that charging document or count, a nolle prosequi is not an acquittal or pardon of the underlying offense and does not preclude a prosecution for the same offense under a different charging document or different count." *Id.* (quotation omitted).

no longer fashion an effective remedy. The Majority's determination that this appeal is not moot is premised upon its conclusion that the nol pros was void and constituted a legal nullity. I, respectfully, disagree that the nol pros was a legal nullity.

As the Majority acknowledges, the State's Attorney generally has broad discretion to enter a nol pros. *State v. Simms*, 456 Md. 551, 561 (2017). Although the Supreme Court of Maryland (at the time named the Court of Appeals of Maryland)[2] has acknowledged that the State's power to nol pros is "not absolute" or "without restraint," *Hook v. State*, 315 Md. 25, 35–36 (1989), the actual limits that have been imposed upon the State's authority to nol pros are quite narrow. Indeed, it is well established that the State may not enter a nol pros that has the purpose or necessary effect of circumventing the *Hicks* rule, *i.e.*, the defendant's right to a trial within 180 days.[3] *Curley v. State*, 299 Md. 449, 462 (1984). The Supreme Court most recently addressed limits on the State's authority to nol pros in the case of *Simms*, *supra*, 456 Md. at 551. The Majority reads *Simms* and *Hook* as generally limiting the State's authority to enter a nol pros when doing so would violate fundamental fairness, and, in some instances, circumvent the right to appeal. In my view, as I shall

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[2] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Md. Rule 1-101.1(a) ("From and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland . . . .").

[3] *State v. Hicks*, 285 Md. 310 (1979).

explain, the reasoning of *Simms* and *Hook* do not extend to the circumstances before us in this appeal.

In *Simms*, after a criminal defendant was convicted and sentenced, the defendant noted an appeal to this Court. 456 Md. at 554–55. The defendant raised arguments on appeal that the evidence was insufficient to support his convictions. *Id.* at 569. While the direct appeal was pending, but before oral arguments were held, the State nol prossed the charge underlying the defendant's conviction and sentence and subsequently moved to dismiss the defendant's appeal as moot. *Id.* at 555. On certiorari to the Supreme Court of Maryland, the State argued that the appeal was moot in light of the subsequent nol pros. The Supreme Court held that the case was not moot because the State "does not have the authority to enter a nol pros after a final judgment has been entered against a defendant in a criminal case." *Id.* at 576. The Court emphasized that "[t]he State had no authority to use its power to nol pros to alter a final judgment entered in favor of or against a criminal defendant. Final judgment is the boundary of the State's discretion to enter a nolle prosequi." *Id.* The Court, therefore, determined that "the nol pros entered in the trial court as to the charge underlying the conviction and sentence was simply a nullity, 'improper' and therefore 'ineffective.'" *Id.*

The Majority also looked to *Hook*, *supra*, 315 Md. at 43–44, which held that it was "fundamentally unfair" for the State to nol pros a lesser included offense when the evidence was sufficient to convict the defendant of either a greater offense or lesser included offense. The Supreme Court explained that "the exceptional circumstances of this case present a rare occasion calling for a tempering of the broad authority vested in a State's Attorney to

terminate a prosecution by a nolle prosequi," observing that the State's conduct in nol prossing the lesser included offense "was inconsistent with the rudimentary demands of fair procedure." *Id.* at 41–42.

The Majority asserts that the State's entry of a nol pros under the circumstances presented in this case violated the requirement that a nol pros conform "to the rudimentary demands of fair procedure" as articulated in *Hook*, *supra*, 315 Md. at 42. The Majority further emphasizes that the nol pros resulted in an injustice to Mr. Lee because it prevented appellate review and prevented victims from receiving the rights to which they are entitled. I do not read *Simms* or *Hook* nearly as broadly as the Majority. First, I observe that the fundamental fairness principle discussed in *Hook* focused upon the fair procedure owed to a criminal defendant whose liberty interest was at stake. "The State of Maryland has expressed a clear public policy . . . to provide broad rights to crime victims . . . in both Maryland's trial and appellate courts." *Antoine v. State*, 245 Md. App. 521, 539 (2020). Indeed, those rights are enshrined in the Maryland Constitution, which recognizes a victim's right to "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process." Md. Const. Decl. of Rts., art. 47(a). Victims' rights, however, are not the same rights as those granted to criminal defendants, and I would not extend the fundamental fairness principle articulated in *Hook* to the situation presented in this appeal.

Furthermore, I would not extend the holding of *Simms* to the circumstances presented in this appeal. The *Simms* Court held that "after a defendant has received a final judgment in the form of a conviction and sentencing, the State may not enter a nolle

prosequi to alter the final judgment. Upon conviction and sentencing based upon an underlying charge, the underlying charge is no longer pending and the State's authority to enter a nol pros has ended." 456 Md. at 578. Unlike *Simms*, this case did not involve a final judgment in the form of a conviction and sentencing. At the time the State entered the nol pros, there was no underlying conviction. I do not read *Simms* as restricting the State's authority to enter a nol pros after the grant of a motion to vacate a conviction.

I would hold that the State acted within its broad authority to enter a nol pros following the vacatur ruling. Indeed, it is well established that trial courts "are not stripped of their jurisdiction to take post-judgment action simply because an appeal is pending from that judgment." *Cottman v. State*, 395 Md. 729, 740 (2006).[4] "[A]bsent a stay required by law, or one obtained from an appellate court," the trial court "has the authority to exercise the 'fundamental jurisdiction' which it possesses." *Id.* at 740–41 (quotation omitted).

In my view, this case is more similar to *Cottman*, in which the circuit court granted the defendant a new trial when the defendant's conviction was pending on appeal. *Id.* at 736–37. The Supreme Court determined that the "appeal became moot the instant that the [c]ircuit [c]ourt granted him a new trial." *Id.* at 743. The appeal in the instant case similarly became moot when the State entered a nol pros. Moreover, I emphasize that Md. Rule

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[4] The Majority considers the out-of-state cases of *Sanders v. State*, 869 S.E.2d 411 (Ga. 2022) (holding the nol pros of a reindictment was a nullity when the denial of a first indictment was pending on appeal), and *Commonwealth v. Hudson*, 92 A.3d 1235 (Pa. Super.), *appeal denied*, 106 A.3d 724 (Pa. 2014) (holding that there was no authority to enter a nol pros while an appeal of a grant of a motion to suppress was pending). The Majority acknowledges, however, that in Maryland, unlike *Sanders* and *Hudson*, trial courts are "not stripped of their jurisdiction to take post-judgment action." *Cottman*, *supra*, 395 Md. at 740.

4-333(i) provides that "[w]ithin 30 days after the court enters an order vacating a judgment of conviction or probation before judgment as to any count, the State's Attorney *shall* either enter a nolle prosequi of the vacated count or take other appropriate action as to that count." (Emphasis provided.) Indeed, the State acted consistently with this mandatory Maryland Rule when entering the nol pros in this case.[5]

The Majority's holding that the nol pros was "void" and a "nullity" is the basis upon which the Majority concludes that this appeal is not moot. The Majority characterizes this case as presenting "exceptional circumstances" that "exist to temper the authority of the State to enter a nol pros." I would hold the State acted within its authority to dismiss the charges when it entered a nol pros after the circuit court vacated Mr. Syed's convictions. The nol pros was "not void *ab initio* for lack of jurisdiction to enter it." *Cottman*, *supra*, 395 Md. at 742. Following the entry of the nol pros in this case, Mr. Syed was no longer a defendant in a criminal case. In my view, there is no underlying case in which to enter a remand, rendering this appeal moot.

Nevertheless, I am persuaded that this appeal presents unresolved issues that are capable of repetition, yet evading review and that involve matters of important public concern. *See In re S.F.*, 477 Md. 296, 318–19. Accordingly, I would exercise discretion to undertake appellate review of the merits.

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[5] If the General Assembly or Rules Committee wished to provide a specific exception to the 30-day requirement for entry of a nol pros if an appeal of the vacatur ruling was pending, they certainly could have done so.

II. Merits

The Majority rejects Mr. Lee's assertion that he should have been provided more notice of the filing of the vacatur motion in this case, as well as Mr. Lee's contention that he should have been provided with notice of and the opportunity to attend the chambers discussion that occurred on Friday, September 16, 2022. I agree with the Majority on both of the above points. Where I part ways with the Majority is with respect to the notice required for the vacatur hearing on Monday, September 19, 2022. I would hold that the notice sufficiently complied with the requirements of the statute because, critically, it enabled Mr. Lee to attend the proceeding via electronic means.

Md. Code (2001, 2018 Repl. Vol., 2021 Supp.), Section 8-301.1 of the Criminal Procedure Article ("CP") sets forth the procedure by which the State may move to vacate a judgment of conviction. With respect to notice to a victim or victim's representative, the statute requires that "[b]efore a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article." CP § 8-301.1(d). Maryland Rule 4-333(g)(2) further provides that "the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing." "If the . . . victim or victim's representative entitled to notice under . . . this Rule is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1).

I agree with the Majority that the notice requirement must be interpreted consistently with the constitutional and statutory mandate that crime victims "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process." Md. Const. Decl. of Rts., art. 47(a), CP § 11-1002(b)(1). I further agree with the Majority that the notice requirement must be interpreted consistently with the legislative intent that a victim has the right to notice and to attend the vacatur hearing. I do not, however, agree that the notice in this case was unreasonable simply because Mr. Lee was notified of the hearing date one business day prior to the hearing. In my view, the notice requirement must be considered in concert with the right to attend, and, in this case, Mr. Lee was ultimately able to attend the vacatur hearing, albeit electronically. As such, the timing of the notice in relation to the hearing is not considered in a vacuum but, rather, in the context of whether the notice was adequate to enable the victim or victim's representative to attend. One business day's notice might not have been reasonable if an electronic attendance option were unavailable, and I generally echo the concerns of the Majority regarding the short time period between when the victim was notified and the vacatur hearing was held. Critically, however, in this instance, Mr. Lee was permitted to and did attend the proceedings electronically.

The Majority holds that attendance via Zoom was insufficient to satisfy Mr. Lee's right to attend the vacatur hearing. The Majority acknowledges that Zoom hearings became commonplace throughout Maryland during the COVID-19 pandemic, but emphasizes that this case did not involve a virtual hearing due to COVID-19 health concerns. The Majority further emphasizes that CP § 8-301.1(d)(2) was enacted prior to

the COVID-19 pandemic and the General Assembly presumably anticipated in-person attendance when it drafted the statute.

The Majority points to Maryland Rules 2-802(a) and 2-803(a), which provide, respectively, that a court "may permit or require . . . participants to participate in a non-evidentiary proceeding by means of electronic participation," Md. Rule 2-802(a), but "may permit . . . participants to participate in an evidentiary proceeding by means of remote electronic participation." Md. Rule 2-803(b). The Majority acknowledges that Maryland Rules 2-802 and 2-803 are applicable to civil matters, not criminal matters. Nonetheless, the Majority posits that principles from these rules inform the analysis in this case.

The Majority emphasizes that, at least in civil cases, the court is not specifically authorized to "require" electronic participation in evidentiary proceedings but is specifically authorized to "require" electronic participation in non-evidentiary proceedings. The Majority is of the view that, similar to the rule preventing a court from requiring a participant to participate in an evidentiary proceeding in a civil case remotely, a court is not permitted to require a victim, who has a right to attend a vacatur proceeding, to attend the proceeding remotely. I disagree.

Even if one were to assume that the principles of Maryland Rules 2-802 and 2-803 apply in the context of this criminal case, I find it notable that Rules 2-802 and 2-803 apply to participants — not to other individuals who may have the right to attend. Mr. Lee does not satisfy the definition of "participant" under Rules 2-802 and 2-803. For the purposes of Maryland Rules 2-802 and 2-803, "participant" is defined as "a party, witness, attorney for a party or witness, judge, magistrate, auditor, or examiner, and any other individual

entitled to speak or make a presentation at the proceeding." Md. Rule 2-801. Mr. Lee, as a victim's representative, does not fall under this definition. The Majority held, and I agree, that Mr. Lee had no right to be heard, present evidence, or otherwise participate in any way at the vacatur hearing. Notably, a victim, or a victim's representative, is not a party to a criminal proceeding. *Hoile v. State*, 404 Md. 591, 606 (2008) ("There are only two parties, the State of Maryland and Hoile.") (citing *Lopez-Sanchez v. State*, 388 Md. 214, 226 (2005) ("The victim is not a party to the proceeding . . . although vested with statutory and constitutional rights . . . ."), *superseded by statute on other grounds*, 2006 Md. Laws Ch. 260 (S.B. 508), *as recognized in Hoile*, *supra*, 404 Md. at 605).

In my view, there are distinct differences between remote participation and in-person participation that are not implicated when an individual has the right to attend but not participate. It is conceivable that an in-person presentation might be more compelling to a fact-finder than a presentation made via electronic means. These concerns are not implicated when an individual has the right to attend but not to participate. Section 8-301.1 of the Criminal Procedure Article provided Mr. Lee the right to *attend* the vacatur hearing, not to *participate*. I would hold that Mr. Lee's attendance via Zoom was sufficient to satisfy this requirement.

The record reflects that the circuit court judge took careful steps to ensure that Mr. Lee had been notified and was afforded the opportunity to attend the vacatur hearing via Zoom. At the beginning of the hearing, the circuit court asked the prosecutor to explain "specifically what notice the State gave to the victim's family in this case." The prosecutor explained that she spoke with Mr. Lee on the telephone on Tuesday, September 13, 2022

and informed him that the State would be filing a motion to vacate. The prosecutor "went through the motion a bit with him" and "sent him a copy of the motion that day." The motion was filed on September 14, 2022.

After the chambers conference on Friday, September 16, 2022, the prosecutor emailed Mr. Lee at 1:59 p.m. to inform him of the date of the vacatur hearing. The email informed Mr. Lee that "[t]he court just scheduled an in-person hearing for Monday, September 19th at 2:00 PM (EST)." The prosecutor explained that although it was an "in-person hearing," she had "asked the court permission for [Mr. Lee] and [his] family to watch the proceedings virtually if [they] would like to watch." The prosecutor included a Zoom link and asked Mr. Lee to "[p]lease let [her] know if anybody from [the] family will be joining the link" so that she could "make sure the court lets [them] into the virtual courtroom."

The prosecutor explained that she did not receive a response to her email, so she followed up with Mr. Lee via text message on Sunday, September 18. Mr. Lee responded via text. He told the prosecutor that he had received the email and stated that he "will be joining." On the morning of the vacatur hearing, counsel entered an appearance for Mr. Lee and moved to postpone the hearing. At the outset of the vacatur hearing, after considering argument from the parties, the circuit court denied the motion to postpone.[6] The court explained that it would "give [counsel for Mr. Lee] time to . . . get Mr. Lee and

[6] I shall not restate the details surrounding the argument on the motion to postpone. I take no issue with the Majority's summary of this issue.

have him join this Zoom." The court stated that "if [Mr. Lee] wants to speak, [the court] will allow him to speak first."

Counsel for Mr. Lee informed the court that he was "unable to advise [his] client" because he was "at work at this point." The court asked counsel for Mr. Lee to step outside of the courtroom to "call Mr. Lee and see what he wants to do." After telephoning his client, counsel for Mr. Lee informed the court that he "was able to reach [Mr. Lee]" and requested thirty minutes for Mr. Lee to get home from work "to a private place where [h]e can participate." The court granted this request and announced a thirty-minute recess at 2:44 p.m. The court reconvened at 3:35 p.m. Mr. Lee was present via Zoom and made a statement.[7] After Mr. Lee's statement, the circuit court thanked Mr. Lee and acknowledged "how difficult" and "very emotional" the day was for him. The court told Mr. Lee that it "appreciate[d] him joining the Zoom this afternoon to make this statement because it is important to hear from the victim or the victim's representative."

Therefore, not only did Mr. Lee "attend" the proceeding -- albeit virtually — as was his right under both the vacatur and the victims' rights statutes, but the trial judge permitted both Mr. Lee and his counsel to address the court during the proceedings, something the Majority and I both agree neither statute requires. Indeed, in addressing Mr. Lee's counsel, the trial judge noted that:

> [Y]our client indicated that he would participate via Zoom. I don't think Zoom is foreign anymore. I think everyone knows what Zoom is. Participate, you know, we do victim's rights, I do it every day on Zoom and the victims come on and they give their victim's impact statements. And it's

[7] Mr. Lee's full statement is reproduced in the Majority's Opinion.

> recorded and it's recorded in the courtroom with this blue man, which is CourtSmart.
>
> So they [the representatives of the victims] have every opportunity to participate. And, I'm giving your client, your client the opportunity to participate now via Zoom if he'd like to speak I will hear from him.

Accordingly, the court acknowledged that Zoom was a practical and serviceable method that courts had been using to allow remote participation in court proceedings. Ultimately, the court provided Mr. Lee with both the attendance he was entitled to, and the judge exercised her discretion in affording him the opportunity to participate. Under the circumstances, I disagree with the Majority that Lee's attendance, via Zoom, did not satisfy his rights, as a victim's representative, to attend the proceedings.

In no way do I intend to minimize the pain suffered by Mr. Lee and by all crime victims and their families, and I recognize the important protections granted to victims and victims' representatives under the Maryland Constitution and by statute. Nonetheless, in my view, the procedure afforded to Mr. Lee in this case was sufficient to satisfy the requirements of the applicable statute. I would hold that the notice Mr. Lee received was sufficient to comply with the requirements of CP § 8-301.1 and Md. Rule 4-333 because it enabled him to attend the vacatur proceeding electronically. Though it was not required to do so, and would not be required to do so on remand, *see Maj. Op. Part VI*, the circuit court permitted Mr. Lee to be heard at the vacatur hearing. In my view, it is for the General Assembly to impose more specific requirements regarding the timing of notice to victims and victims' representatives for vacatur hearings if it is inclined to do so. Similarly, the Rules Committee could recommend and the Supreme Court could adopt more specific

requirements. Accordingly, I would affirm the judgment of the Circuit Court for Baltimore City. For these reasons, I, respectfully, dissent.

Attachment A

SENATE JUDICIAL PROCEEDINGS COMMITTEE

BOBBY A. ZIRKIN, CHAIR · COMMITTEE REPORT SYSTEM

DEPARTMENT OF LEGISLATIVE SERVICES · 2019 MARYLAND GENERAL ASSEMBLY

FLOOR REPORT

House Bill 874

Criminal Procedure - Postconviction Review - State's Motion to Vacate

SPONSORS: (Delegate Barron, et al.)

COMMITTEE RECOMMENDATION: **Favorable with Amendments (2)**

SHORT SUMMARY:

As amended, this bill authorizes a court with jurisdiction over the case, on motion of the State, to vacate a probation before judgment or conviction when (1) there is newly discovered evidence that could not have been discovered by due diligence in time to move for a new trial and creates a substantial or significant probability that the result would have been different or (2) the State receives new information after the entry of a probation before judgment or judgment of conviction that calls into question the integrity of the probation before judgment or conviction. The interest of justice and fairness must also justify vacating the probation before judgment or conviction.

COMMITTEE AMENDMENTS: **There are two (2) committee amendments.**

AMENDMENT NO. 1: Is technical.

AMENDMENT NO. 2: Alters the criteria for granting a motion and requires a hearing on a motion as specified.

SUMMARY OF BILL:

The bill establishes requirements for filed motions, requires notification of the defendant and the victim or the victim's representative, and authorizes a defendant to file a response to the motion.

The State may make a motion at any time after the entry of the probation before judgment or conviction in the case. The court must hold a hearing on a motion if the bill meets the specified requirements for a motion and a hearing was requested. The State has the burden of proof in a proceeding on the motion. The court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted. In ruling on a motion, the court, as it considers appropriate, may vacate the conviction or

probation before judgment and discharge the defendant or deny the motion. Either party may take an appeal from an order entered on the motion.

CURRENT LAW:

A person convicted of a crime has a number of alternatives for seeking review of a conviction. The options include (1) an appeal; (2) review at the trial court level (motion for new trial and a petition for writ of actual innocence); (3) petition under the Uniform Postconviction Procedure Act; and (4) coram nobis. In general, a defendant is not limited to any particular option for judicial review and may pursue multiple avenues for review in connection with a single conviction. However, the pursuit of these options must be initiated by the defendant, not the State. Some of these options are discussed below.

Motion for a New Trial

In general, a defendant has 10 days after the verdict to file a motion for a new trial, and the trial court has discretionary authority to grant a new trial if the court finds that a new trial is in the interest of justice. There are several grounds on which a defendant may base a motion for a new trial. However, there are specific grounds that allow the defendant more time to file the motion, including (1) an unjust or improper verdict; (2) fraud, mistake, or irregularity; (3) newly discovered evidence; or (4) an act of prostitution as a victim of human trafficking.

A defendant has 90 days after sentencing to file a motion for a new trial based on either an unjust or improper verdict, such as a verdict contrary to evidence, or fraud, mistake, or irregularity. Allegations that constitute fraud, mistake, or irregularity include misconduct of a juror, bias and disqualification of jurors, misconduct or error of the judge, and prosecutorial misconduct.

A defendant has one year after sentencing or the date on which the court received a mandate (i.e., ruling) from the Court of Appeals or the Court of Special Appeals, whichever is later, to file a motion for a new trial based on newly discovered evidence. This motion must allege that newly discovered evidence exists that could not have been discovered by due diligence within 10 days after the original verdict. However, a defendant may file a motion for a new trial based on newly discovered evidence at any time, if the newly discovered evidence is based on DNA identification testing or other generally accepted scientific techniques, the results of which, if proven, would show the defendant is actually innocent of the crime.

Uniform Postconviction Procedure Act

Any person convicted of a crime in the District Court or a circuit court has a right to institute a proceeding for postconviction relief in a circuit court to set aside or correct a

verdict. This right extends to a sentence of parole or probation, as well as confinement. Relief under the Uniform Postconviction Procedure Act is available to a person confined under sentence of imprisonment or on parole or probation.

A postconviction proceeding is not an inquiry into guilt or innocence; the trial and appellate review are where that issue is determined. Postconviction proceedings focus on whether the sentence or judgment imposed is in violation of the U.S. Constitution or the constitution or laws of the State. In theory, the scope of this inquiry is quite broad. The postconviction court may not, however, grant relief based on an allegation of a particular error if the petitioner has finally litigated or waived the error. As a practical matter, this requirement bars the petitioner from obtaining relief for most trial errors.

Unless extraordinary cause is shown, a petition for postconviction relief must be filed within 10 years of the sentence. The petition must be filed in the circuit court for the county where the conviction took place. A person may only file one petition arising out of each trial or sentence. A defendant is entitled to a hearing on the merits, the assignment of counsel, and a right of appeal. In the interests of justice, a court may reopen a postconviction proceeding that was previously decided.

Writ of Error Coram Nobis

Another way to challenge the legality of a conviction is to file a petition for a writ of error coram nobis. The writ is only available to a person who (1) challenges a conviction based on constitutional, jurisdictional, or fundamental grounds, whether factual or legal; (2) rebuts the presumption of regularity that attaches to the criminal case; (3) faces significant collateral consequences from the conviction; (4) asserts an alleged error that has not been waived or finally litigated in a prior proceeding; and (5) is not entitled to another statutory or common law remedy. The purpose of the writ of error coram nobis is to request that a court reopen or reconsider a matter that the court has already decided, based on an error of fact or law that was not raised as an issue at trial. For example, one ground for a writ of error coram nobis is that the defendant entered into an involuntary guilty plea.

The writ is used "to bring before the court facts which were not brought into issue at the trial of the case, and which were material to the validity and regularity of the proceedings, and which if known by the court, would have prevented the judgment." Skok v. State, 361 Md. 52, 68 (2000) (quoting Madison v. State, 205 Md. 425, 432 (1954)).

Coram nobis may be used by a defendant who is not in custody (i.e., not incarcerated, or on parole or probation) and faces collateral consequences as a result of a conviction.

Writ of Actual Innocence

A person charged by indictment or criminal information with a crime triable in circuit court

and convicted of that crime may, at any time, file a writ of actual innocence in the circuit court for the county in which the conviction was imposed. If the conviction resulted from a trial, the person must claim that there is newly discovered evidence that (1) creates a substantial or significant possibility that the result may have been different and (2) could not have been discovered in time to move for a new trial. If the conviction resulted from a guilty plea, an Alford plea, or a plea of nolo contendere, the person must claim that there is newly discovered evidence that (1) establishes by clear and convincing evidence the petitioner's actual innocence and (2) could not have been discovered in time to move for a new trial.

The State must be notified of the petition and may file a response. A victim or the victim's representative must be notified, as well, and has the right to attend the hearing on the petition. If the court finds that the petition fails to assert grounds on which relief may be granted, the court may dismiss the petition without a hearing.

In the case of a petition where the conviction resulted from a trial, the court may (1) set aside the verdict; (2) resentence; (3) grant a new trial; or (4) correct the sentence, as the court considers appropriate.

If the conviction resulted from a guilty plea, an Alford plea, or a plea of nolo contendere, when assessing the impact of the newly discovered evidence on the strength of the State's case against the petitioner at the time of the plea, the court may consider admissible evidence submitted by either party, in addition to the evidence presented as part of the factual support of the plea, that was contained in law enforcement files in existence at the time the plea was entered.

If the court determines that the evidence establishes the petitioner's actual innocence by clear and convincing evidence, the court may allow the petitioner to withdraw the guilty plea, Alford plea, or plea of nolo contendere and (1) set aside the conviction; (2) resentence; (3) schedule the matter for trial; or (4) correct the sentence, as the court considers appropriate. When determining the appropriate remedy, the court may allow both parties to present any admissible evidence that came into existence after the plea was entered and is relevant to the petitioner's claim of actual innocence. The State or the petitioner may appeal an order entered by the court on a petition filed for a conviction that

BACKGROUND:

The Baltimore City Gun Trace Task Force was created in 2007 as an elite unit within the Baltimore City Police Department intended to pursue violent criminals and persons illegally possessing and using guns. In 2017, eight of the nine members of the task force were charged with crimes including racketeering, robbery, extortion, overtime pay fraud, and filing false paperwork. The officers allegedly pocketed hundreds of thousands of

dollars discovered while searching the homes and cars of criminals and some innocent civilians. All eight members who were indicted either pled guilty or were convicted of several federal charges.

According to news reports, an estimated 1,300 cases may have been affected by the task force's activities. The Office of the State's Attorney for Baltimore City is reviewing past cases where task force officers were material witnesses to determine if convictions need to be vacated. The officers involved may have committed crimes as far back as 2008.

FISCAL IMPACT:

State Effect: The bill can be handled with existing budgeted resources.

Local Effect: The bill can be handled with existing budgeted resources.

Small Business Effect: None.

ADDITIONAL INFORMATION:

Prior Introductions: None.

Cross File: SB 676 (Senator West) - Judicial Proceedings.

COUNSEL: Jamie Lancaster (x5372)

House Bill 874

Criminal Procedure - Postconviction Review - State's Motion to Vacate

SPONSORS:
(Delegate Barron, et al.)

COMMITTEE RECOMMENDATION: FAVORABLE WITH AMENDMENT

COMMITTEE AMENDMENT: alters the grounds for the filing of a motion to vacate under the bill.

BILL SUMMARY:

As amended, this bill authorizes a court with jurisdiction over the case, on motion of the State, to vacate a probation before judgment or conviction when (1) there is newly discovered evidence that meets specified criteria; or (2) the State presents information that justifies vacating the probation before judgment or conviction in the interest of justice and fairness or calls into question the integrity of the conviction or probation before judgment.

The bill establishes requirements for filed motions, requires notification of the defendant and the victim or the victim's representative, and authorizes a defendant to file a response to the motion.

The State may make a motion at any time after the entry of the probation before judgment or conviction in the case. The court must hold a hearing on a motion if the bill meets the specified requirements for a motion and a hearing was requested. The State has the burden of proof in a proceeding on the motion. The court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which

relief may be granted. In ruling on a motion, the court, as it considers appropriate, may vacate the conviction or probation before judgment and discharge the defendant or deny the motion. Either party may take an appeal from an order entered on the motion.

CURRENT LAW:

While there are several acts that were once but are no longer crimes, the most likely former crime to which the bill applies is the use or possession of less than 10 grams of marijuana. Pursuant to Chapter 158 of 2014, possession of less than 10 grams of marijuana is a civil offense punishable by a fine of up to $100 for a first offense and $250 for a second offense. The maximum fine for a third or subsequent offense is $500. For a third or subsequent offense, or if the individual is younger than age 21, the court must (1) summon the individual for trial upon issuance of a citation; (2) order the individual to attend a drug education program approved by the Maryland Department of Health; and (3) refer him or her to an assessment for a substance abuse disorder. After the assessment, the court must refer the individual to substance abuse treatment, if necessary.

Otherwise, use or possession of marijuana is a misdemeanor, punishable by imprisonment for up to six months and/or a $1,000 maximum fine.

Chapter 4 of 2016 repealed the criminal prohibition on the use or possession of marijuana paraphernalia and eliminated the associated penalties. The law also established that the use or possession of marijuana involving smoking marijuana in a public place is a civil offense, punishable by a fine of up to $500. Penalties under § 5-619 of the Criminal Law Article for paraphernalia offenses other than use or possession still apply to acts involving marijuana.

BACKGROUND:

In January 2019, Baltimore City State's Attorney Marilyn Mosby

announced that her office would cease prosecutions for possession of marijuana. She also filed motions to vacate convictions in approximately 5,000 marijuana possession cases. She cited the social and economic collateral consequences of these convictions and the disproportionate enforcement of marijuana possession laws on minorities as reasons behind her decision. According to news reports, the office used petitions for writs of error coram nobis to pursue the vacating of these convictions.

Under the English common law, a writ of error coram nobis was a remedy allowing a court to correct an error in fact. The writ was used "to bring before the court facts which were not brought into issue at the trial of the case, and which were material to the validity and regularity of the proceedings, and which if known by the court, would have prevented the judgment." Skok v. State, 361 Md. 52, 68 (2000) (quoting Madison v. State, 205 Md. 425, 432 (1954)). In Skok v. State, the Court of Appeals extended the writ of error coram nobis to apply to errors in law. See Skok at 78.

A petition for a writ of error coram nobis "provides a remedy for a person who is not incarcerated and not on parole or probation, who is faced with a significant collateral consequence of his or her conviction, and who can legitimately challenge the conviction on constitutional grounds." Parker v. State, 160 Md. 672, 677 (2005) (citing Skok v. Stae, 361 Md. 52, 78 (2000)). The petitioner bears the burden of proof "to show that the grounds for challenging the criminal conviction are of a constitutional, jurisdictional, or fundamental character; that the petitioner is suffering or facing significant collateral consequences from the conviction; and that there is no other statutory or common law remedy available." See Parker at 678 (citing Skok at 78-80).

FISCAL IMPACT:

State Effect: Minimal increase in general fund expenditures to handle increased court workloads. Revenues are not affected.

Local Effect: Minimal increase in local expenditures to handle increased court workloads. Revenues are not affected.

Small Business Effect: None.

ADDITIONAL INFORMATION:
Prior Introductions: None.

Cross File: SB 676 (Senator West) - Judicial Proceedings.

Judiciary
2/26/2019

HB0874 - Delegate Barron

Criminal Procedure - Postconviction Review - State's Motion to Vacate

TOTALS: Panels: 2 FAV: 19 FWA: 0 UNF: 2 INFO: 0 Oral: 20 Written: 2 **2/26/2019 1:00 PM**

Type	Position	Testify	Name	Organization	Address	Phone	Email
Panel - Bill Sponsor	FAV	Oral	Delegate Barron				
	FAV	Oral	MARILYN MOSBY	BALTIMORE CITY STATE'SVATTORNEY			
	FAV	Oral	TONY GIOIA	BALTIMORE CITY STATE'S ATTORNEY'S OFFICE			
	FAV	Oral	JUDGE (RET.) ALEX WILLIAMS	GTTF COMMISSION TO RESTORE PUBLIC TRUST			
	FAV	Oral	AISHA BRAVEBOY	PRINCE GEORGE'S COUNTY STATE'S ATTORNEY			
	FAV	Oral	DAVID LABAHN	CEO, ASSOCIATION OF PROSECUTING ATTORNEYS			
Panel - Public	FAV	Oral	PAUL DEWOLFE	MD Public Defender			

Judiciary
2/26/2019

HB0874 - Delegate Barron

Criminal Procedure - Postconviction Review - State's Motion to Vacate

TOTALS: Panels: 2 FAV: 19 FWA: 0 UNF: 2 INFO: 0 Oral: 20 Written: 2 **2/26/2019 1:00 PM**

Type	Position	Testify	Name	Organization	Address	Phone	Email
Panel - Public	FAV	Oral	sean malone	commission to restore trust in policing			
	FAV	Oral	michele nethercott	UB innocence project			
	FAV	Oral	toni holness	ACLU			
	FAV	Oral	Dayvon love	leaders of a beautiful struggle			
	FAV	Oral	nicole hansen	out 4 justice			
Individual	FAV	Oral	doug colbert	university of maryland school of law			
Individual	FAV	Oral	Alan Drew	Maryland Criminal Defense Attorneys Association			
Individual	FAV	Both	Douglas Colbert	university of maryland law school			
Individual	UNF	Oral	joe riley	md state's attys	denton		
Individual	FAV	Oral	Ivan potts	Out for Justice			
Individual	FAV	Oral	nicole hanson	out for justice			
Individual	UNF	Oral	andrew rappaport	msaa	3300north ridge road		
Individual	FAV	Oral	Doug Colbert				

Judiciary
2/26/2019

HB0874 - Delegate Barron

Criminal Procedure - Postconviction Review - State's Motion to Vacate

TOTALS: **Panels: 2** **FAV: 19** **FWA: 0** **UNF: 2** **INFO: 0** **Oral: 20** **Written: 2**

2/26/2019 1:00 PM

Type	Position	Testify	Name	Organization	Address	Phone	Email
Individual	FAV	Written	Toni Holness	ACLU			

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

580 Taylor Avenue
Annapolis, MD 21401

MEMORANDUM

TO:	House Judiciary Committee
FROM:	Legislative Committee Suzanne D. Pelz, Esq. 410-260-1523
RE:	House Bill 874 Criminal Procedure – Postconviction Review – State's Motion to Vacate
DATE:	February 20, 2019 (2/26)
POSITION:	Oppose

The Maryland Judiciary opposes House Bill 874. This bill would allow a court, with jurisdiction over the case and subject to motion by the state, to vacate either a probation before judgment or conviction for the reasons enumerated in the proposed bill. The legislation also calls for victim notification, notification of the defendant, allows for a response to the motion by the defendant, and a request for a hearing if sought by the state.

This bill requires finding the victim before a hearing, but if no one requests a hearing the victim has no way of receiving notice to exercise the victim's rights. In addition, the bill indicates that in addition to a right to notice, a victim has a right to attend a hearing but it is not clear under this legislation if the victim has a right to be heard at the hearing.

The Judiciary also believes this bill is unnecessary as numerous postconviction laws, including Criminal Procedure § 8-301, address this issue. In addition, the Judiciary is concerned that § 8-303(a)(5) of the bill is vague in requiring courts to determine whether "the interest of justice and fairness justifies vacating the probation before judgment or conviction." Further, the bill is inconsistent as it authorizes a court to dismiss a motion without a hearing but also provides that a court shall state the reasons for a ruling on the record. It is unclear if this means the court would have to then hold a hearing to state the reasons for dismissing the motion without a hearing on the record.

cc. Hon. Erek Barron
Judicial Council
Legislative Committee
Kelley O'Connor

Maryland Commission to Restore Trust in Policing

House Bill 874: Criminal Procedure-Postconviction Review – State's Motion to Vacate

The Maryland Commission to Restore Trust in Policing Support for a Favorable Report

The Maryland Commission to Restore Trust in Policing has voted unanimously to support and request a favorable report on House Bill 874, entitled Criminal Procedure-Postconviction Review-State's Motion to Vacate. We firmly believe this critical legislation is an essential first step to address the wrongful convictions attained as a result of the criminal actions of the Gun Trace Task Force (GTTF).

Senate Bill 1099 (Chapter 753) of 2018 established the Commission to Restore Trust in Policing which under the leadership of the Honorable Alexander Williams, is tasked with reviewing the operation of the Baltimore Police Department's GTTF and make recommendations to enact policies and best practices to restore trust in the Baltimore Police Department. Effective policing relies on public trust and established practices to avoid police misconduct and ensure accountability for wrongdoers.

The commission during its public meetings has heard significant amounts of testimony regarding the devastating impact of the rouge GTTF. Several witnesses have expressed extreme concern about the damage done to Baltimore City by GTTF and emphasized the importance of the work of the commission in restoring Baltimore citizens' faith and trust in government. The actions of these officers resulted in bogus charges and convictions of many Baltimore citizens. The commission strongly believes HB 874 is a tool the State's Attorney of Baltimore needs to mitigate the significant harm done by this rogue band of criminal officers.

HB 874 enables a court on a motion of the State's Attorney to vacate a conviction or entry of probation of judgment under circumstances which serve the interest of justice and fairness. In particular, the commission believes the General Assembly should enable a court, when petitioned by the State's Attorney, to vacate the entry of a probation of judgment or conviction when newly discovered evidence which was not available at the time for a motion for a new trial under Maryland Rule 4-331 (c) and that evidence creates a substantial possibility that the probation before judgment or conviction would not have occurred.

Additionally, HB 874 infuses the criminal justice system with a broad but reasonable standard to enable the reversal of unjust convictions when the interest of justice and fairness justifies in the eyes of the court dictates. In Baltimore, citizens were prosecuted and convicted based on tainted and often false evidence and testimony manufactured by members of the GTTF. According to testimony by the Baltimore State's Attorney's office, current court rules hinder their efforts to reverse the wrongful convictions which have left many citizens convicted, imprisoned and burdened with a felony conviction. The commission feels strongly that HB 874 provides an intelligent approach to addressing the unjust outcomes and harms caused by the unlawful actions of the GTTF by providing a new course to reverse wrongful convictions.

We respectfully request a favorable report of HB 874.

ERIK L. BARRON
Legislative District 24
Prince George's County

Health and Government Operations Committee

Subcommittees
Government Operations and Estates and Trusts

Public Health and Minority Health Disparities

The Maryland House of Delegates
6 Bladen Street, Room 216
Annapolis, Maryland 21401
301-858-3692 · 410-841-3692
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 26, 2019

Delegate Luke Clippinger
Chairman, House Judiciary
Vanessa Atterbeary
Vice Chair, House Judiciary
House Office Building
Annapolis, MD 21401

Re: Request for a favorable report on House Bill 874

Dear Chair Clippinger, Vice Chair Atterbeary and Members of the Judiciary Committee:

Sometimes, long before the defendant, it is the prosecutor who may learn of credible and material information of a wrongful conviction or sentence or some other reason to make a reexamination of a case after it has become final. In Maryland, there is no clear tool for the prosecutor when this happens.

House Bill 874 provides a mechanism for a prosecutor to do what he or she is legally, ethically, and by well-tread standards, bound to do. As an attorney and officer of the court, the prosecutor is unique and by codifying this responsibility, the proposed provisions would not only protect individual rights but also serve to enhance public confidence in our justice system.

The U.S. Supreme Court, in *Berger v. United States*, 295 U.S. 78, 88 (1935), stated that prosecutors have special obligations as representatives "not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done."

The Maryland Lawyer's Rules of Professional Conduct has particular rules for prosecutors – the Comments to Rule 3.8, Special Responsibilities of a Prosecutor, state: "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate."

The National District Attorneys Association, National Prosecution Standards 8-1.8 states, "When the prosecutor is satisfied that a convicted person is actually innocent, the prosecutor should notify the appropriate court…and seek the release of the

[redacted]

defendant if incarcerated. If the prosecutor becomes aware of material and credible evidence which leads him or her to reasonably believe a defendant may be innocent of a crime for which the defendant has been convicted, the prosecutor should disclose, within a reasonable period of time, as circumstances dictate, such evidence to the appropriate court." These standards also say that the "primary responsibility of a prosecutor is to seek justice, which can only be achieved by the representation and presentation of the truth" and that this responsibility includes "that the innocent are protected from unwarranted harm."

This standard is also embedded within the American Bar Association's Criminal Justice Standards for the Prosecution Function, Standard 3-8.3, which says that "[i]f a prosecutor learns of credible and material information creating a reasonable likelihood that a defendant was wrongfully convicted or sentenced or is actually innocent, the prosecutor should...develop policies and procedures to address such information, and take actions that are consistent with applicable law, rules, and the duty to pursue justice."

The American Bar Association Model Rules of Professional Responsibility, Rule 3.8(g) and (h) outlines "Special Responsibilities of a Prosecutor" requiring, among other things, that if he or she knows of clear and convincing evidence establishing a wrongful conviction, the prosecutor shall seek to remedy the conviction.

Thus, a prosecutor has clearly established obligations under case law, ethical rules, and standards established by national prosecutor organizations. House Bill 874 provides a clear mechanism for him or her to fulfill these responsibilities. Under the bill, it's still up to a judge to make the ultimate decision.

This is simply one tool to empower a prosecutor, at his or her discretion, to do justice and I urge your favorable vote.

Respectfully,

Erek L. Barron

Delegate Erek L. Barron

Ariz. R. Crim. P. 24.2

Copy Citation

Current through changes received by the publisher as of October 15, 2018, except for the re-promulgation of the rules of Family law procedure, which will be available when effective on January 1, 2019.

- Arizona Court Rules
- RULES OF CRIMINAL PROCEDURE
- IV. PRETRIAL PROCEDURES
- RULE 24. POST-TRIAL MOTIONS

Rule 24.2. Motion to **vacate** judgment

(a) Grounds. -- The court must **vacate** a judgment if it finds that:
(1) the court did not have jurisdiction;
(2) newly discovered material facts exist satisfying the standards in Rule 32.1(e); or
(3) the conviction was obtained in violation of the United States or Arizona constitutions.
(b) Time for filing. -- A party must file a motion under this rule no later than 60 days after the entry of judgment and sentence, or, if a notice of appeal has already been filed under Rule 31, no later than 15 days after the appellate clerk distributes a notice under Rule 31.9(e) that the record on appeal has been filed.
(c) Motion filed after notice of appeal. -- If a party files a motion to **vacate** judgment after a notice of appeal is filed, the superior court clerk must immediately send copies of the motion to the Attorney General and to the clerk of the appellate court in which the appeal was filed.
(d) Appeal from a decision on the motion. -- In noncapital cases, the party appealing a final decision on the motion must file a notice of appeal with the trial court clerk no later than 20 days after entry of the decision for a superior court case, or no later than 14 days after entry of the decision for a limited jurisdiction court case. In a capital case, if the court denies the motion, it must order the clerk to file a notice of appeal from that denial.
(e) State's motion to vacate judgment. -- Notwithstanding (b), the State may move the court to **vacate** the judgment at any time after the entry of judgment and sentence if:
(1) clear and convincing evidence exists establishing that the defendant was convicted of an offense that the defendant did not commit; or
(2) the conviction was based on an erroneous application of the law.

Attachment A

Assembly Bill No. 1793

CHAPTER 993

An act to add Section 11361.9 to the Health and Safety Code, relating to cannabis.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, Bonta. Cannabis convictions: resentencing.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. The bill would require the department to notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of a sentence, dismissal and sealing, or redesignation. The bill would require the prosecution to, on or before July 1, 2020, review all cases and determine whether to challenge the resentencing, dismissal and sealing, or redesignation. The bill would authorize the prosecution to challenge the resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the prosecution to notify the public defender and the court when they are challenging a particular resentencing, dismissal and sealing, or redesignation, and would require the prosecution to notify the court if they are not challenging a particular resentencing, dismissal and sealing, or redesignation. By imposing additional duties on local entities, this bill would create a state-mandated local program. The bill would require the court to automatically reduce or dismiss the conviction pursuant to AUMA if there is no challenge by July 1, 2020. The bill would require the department to modify the state summary criminal history information database in conformance with the recall or dismissal of sentence, dismissal

Attachment B

and sealing, or redesignation within 30 days and to post specified information on its Internet Web site.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 11361.9 is added to the Health and Safety Code, to read:

11361.9. (a) On or before July 1, 2019, the Department of Justice shall review the records in the state summary criminal history information database and shall identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to Section 11361.8. The department shall notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation.

(b) The prosecution shall have until July 1, 2020, to review all cases and determine whether to challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation.

(c) (1) The prosecution may challenge the resentencing of a person pursuant to this section when the person does not meet the criteria established in Section 11361.8 or presents an unreasonable risk to public safety.

(2) The prosecution may challenge the dismissal and sealing or redesignation of a person pursuant to this section who has completed his or her sentence for a conviction when the person does not meet the criteria established in Section 11361.8.

(3) On or before July 1, 2020, the prosecution shall inform the court and the public defender's office in their county when they are challenging a particular recall or dismissal of sentence, dismissal and sealing, or redesignation. The prosecution shall inform the court when they are not challenging a particular recall or dismissal of sentence, dismissal and sealing, or redesignation.

(4) The public defender's office, upon receiving notice from the prosecution pursuant to paragraph (3), shall make a reasonable effort to notify the person whose resentencing or dismissal is being challenged.

(d) If the prosecution does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court shall reduce or dismiss the conviction pursuant to Section 11361.8.

(e) The court shall notify the department of the recall or dismissal of sentence, dismissal and sealing, or redesignation and the department shall modify the state summary criminal history information database accordingly.

(f) The department shall post general information on its Internet Web site about the recall or dismissal of sentences, dismissal and sealing, or redesignation authorized in this section.

(g) It is the intent of the Legislature that persons who are currently serving a sentence or who proactively petition for a recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to Section 11361.8 be prioritized for review.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

NY Criminal Procedure Law

S 440.10 **Motion to vacate judgment.**

1. At any time after the entry of a judgment, the court in which it was entered may, upon motion of the defendant, vacate such judgment upon the ground that:

(a) The court did not have jurisdiction of the action or of the person of the defendant; or

(b) The judgment was procured by duress, misrepresentation or fraud on the part of the court or a prosecutor or a person acting for or in behalf of a court or a prosecutor; or

(c) Material evidence adduced at a trial resulting in the judgment was false and was, prior to the entry of the judgment, known by the prosecutor or by the court to be false; or

(d) Material evidence adduced by the people at a trial resulting in the judgment was procured in violation of the defendant's rights under the constitution of this state or of the United States; or

(e) During the proceedings resulting in the judgment, the defendant, by reason of mental disease or defect, was incapable of understanding or participating in such proceedings; or

(f) Improper and prejudicial conduct not appearing in the record occurred during a trial resulting in the judgment which conduct, if it had appeared in the record, would have required a reversal of the judgment upon an appeal therefrom; or

(g) New evidence has been discovered since the entry of a judgment

Attachment C

based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence; or

(g-1) Forensic DNA testing of evidence performed since the entry of a judgment, (1) in the case of a defendant convicted after a guilty plea, the court has determined that the defendant has demonstrated a substantial probability that the defendant was actually innocent of the offense of which he or she was convicted, or (2) in the case of a defendant convicted after a trial, the court has determined that there exists a reasonable probability that the verdict would have been more favorable to the defendant.

(h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; or

(i) The judgment is a conviction where the arresting charge was under section 240.37 (loitering for the purpose of engaging in a prostitution offense, provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution or promoting prostitution) or 230.00 (prostitution) or 230.03 (prostitution in a school zone) of the penal law, and the defendant's participation in the offense was a result of having been a victim of sex trafficking under

section 230.34 of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that

(i) a motion under this paragraph shall be made with due diligence, after the defendant has ceased to be a victim of such trafficking or compelling prostitution crime or has sought services for victims of such trafficking or compelling prostitution crime, subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of such trafficking or compelling prostitution crime that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this paragraph; and

(ii) official documentation of the defendant's status as a victim of trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph.

2. Notwithstanding the provisions of subdivision one, the court must deny a motion to vacate a judgment when:

(a) The ground or issue raised upon the motion was previously

determined on the merits upon an appeal from the judgment, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue; or

(b) The judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof upon such an appeal. This paragraph shall not apply to a motion under paragraph (i) of subdivision one of this section; or

(c) Although sufficient facts appear on the record of the proceedings underlying the judgment to have permitted, upon appeal from such judgment, adequate review of the ground or issue raised upon the motion, no such appellate review or determination occurred owing to the defendant's unjustifiable failure to take or perfect an appeal during the prescribed period or to his unjustifiable failure to raise such ground or issue upon an appeal actually perfected by him; or

(d) The ground or issue raised relates solely to the validity of the sentence and not to the validity of the conviction.

3. Notwithstanding the provisions of subdivision one, the court may deny a motion to vacate a judgment when:

(a) Although facts in support of the ground or issue raised upon the motion could with due diligence by the defendant have readily been made to appear on the record in a manner providing adequate basis for review of such ground or issue upon an appeal from the judgment, the defendant unjustifiably failed to adduce such matter prior to sentence and the

ground or issue in question was not subsequently determined upon appeal. This paragraph does not apply to a motion based upon deprivation of the right to counsel at the trial or upon failure of the trial court to advise the defendant of such right, or to a motion under paragraph (i) of subdivision one of this section; or

(b) The ground or issue raised upon the motion was previously determined on the merits upon a prior motion or proceeding in a court of this state, other than an appeal from the judgment, or upon a motion or proceeding in a federal court; unless since the time of such determination there has been a retroactively effective change in the law controlling such issue; or

(c) Upon a previous motion made pursuant to this section, the defendant was in a position adequately to raise the ground or issue underlying the present motion but did not do so.

Although the court may deny the motion under any of the circumstances specified in this subdivision, in the interest of justice and for good cause shown it may in its discretion grant the motion if it is otherwise meritorious and vacate the judgment.

4. If the court grants the motion, it must, except as provided in subdivision five or six of this section, vacate the judgment, and must dismiss the accusatory instrument, or order a new trial, or take such other action as is appropriate in the circumstances.

5. Upon granting the motion upon the ground, as prescribed in paragraph (g) of subdivision one, that newly discovered evidence creates

a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant in that the conviction would have been for a lesser offense than the one contained in the verdict, the court may either:

(a) Vacate the judgment and order a new trial; or

(b) With the consent of the people, modify the judgment by reducing it to one of conviction for such lesser offense. In such case, the court must re-sentence the defendant accordingly.

6. If the court grants a motion under paragraph (i) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, and may take such additional action as is appropriate in the circumstances.

7. Upon a new trial resulting from an order vacating a judgment pursuant to this section, the indictment is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed by the order vacating the judgment, and (c) those previously dismissed by an appellate court upon an appeal from the judgment, or by any court upon a previous post-judgment motion.

8. Upon an order which vacates a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not

dismiss the entire accusatory instrument, the criminal action is, in the absence of an express direction to the contrary, restored to its prepleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those subsequently dismissed under circumstances specified in paragraphs (b) and (c) of subdivision six. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition not only of the accusatory instrument underlying the judgment vacated but also of one or more other accusatory instruments against the defendant then pending in the same court, the order of vacation completely restores such other accusatory instruments; and such is the case even though such order dismisses the main accusatory instrument underlying the judgment.

Barron, Erek Delegate (Laptop)

From: Barron, Erek Delegate (Laptop)
Sent: Monday, February 25, 2019 5:53 PM
To: West, Chris Senator
Subject: RE: SB 676

Hey, just confirming that I do not have a big problem with the proposed changes and agree that (1) the conviction no longer a crime provision, (2) the possession of marijuana provision, (3) drug paraphernalia provision, and (4) the newly discovered evidence provision in the original bill are all included in the "interest of justice and fairness" provision. Judges should give strong deference to a prosecutor's decision and judgement to move pursuant to this new mechanism.

From: Barron, Erek Delegate
Sent: Monday, February 25, 2019 12:59 PM
To: Barron, Erek Delegate (Laptop) <Delegate.E.Barron@house.state.md.us>
Subject: FW: SB 676

From: West, Chris Senator
Sent: Monday, February 25, 2019 10:45 AM
To: Barron, Erek Delegate <Erek.Barron@house.state.md.us>
Subject: FW: SB 676

Erek, I just took a look at Scott's proposed changes. They actually seem to broaden the bill and would enable the State to move to vacate on any ground at all if the State feels that the interest of justice and fairness justifies vacating the probation before judgment or the conviction. Let's talk about this when we meet.

From: Scott Shellenberger [mailto:sshellenberger@baltimorecountymd.gov]
Sent: Monday, February 25, 2019 8:36 AM
To: West, Chris Senator <Chris.West@senate.state.md.us>
Cc: Lazerow, Marc <MLazerow@senate.state.md.us>; MSchatzow@stattorney.org
Subject: SB 676

I think SB 676 needs to have some amendments as parts of it are unnecessary and other parts are too broad. Attached is our marked up version of how we would like the bill to look. We believe by making it more general you capture what you were aiming for.

Attachment D

Changes I would like.

1. Remove (A) (1)(2)(3) in each of these listed there already exists an ability to expunge under well-established conditions. Reopening and having the ability to expunge will be redundant and create confusion.
2. Remove (4) is already covered by rules moving for new trials again with well-established rules and conditions.
3. Have section (A) now read like this which I believe captures your original intent:

(A) ON A MOTION OF THE STATE, AT ANY TIME AFTER THE ENTRY OF A PROBATION BEFORE JUDGMENT OR JUDGMENT OF CONVICTION IN A CRIMINAL CASE, THE COURT WITH JURISDICTION OVER THE CASE MAY VACATE THE PROBATION BEFORE JUDGMENT OR CONVICTION:

If in the judgement of the state THE INTEREST OF JUSTICE AND FAIRNESS JUSTIFIES VACATING THE PROBATION BEFORE JUDGMENT OR CONVICTION

HB 874 2/26

SENATE BILL 676

2/27

E2

9lr2515
CF 9lr1669

By: Senator West
Introduced and read first time: February 4, 2019
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Criminal Procedure – Postconviction Review – State's Motion to Vacate

FOR the purpose of authorizing a court to vacate a certain probation before judgment or judgment of conviction under certain circumstances; establishing the requirements for a certain motion; requiring the State to notify a certain defendant of the filing of a certain motion in a certain manner; authorizing the defendant to file a response to a certain motion within a certain time period; requiring that a certain victim or victim's representative be notified of a certain hearing; providing that a victim or victim's representative has the right to attend a certain hearing; requiring the court to hold a hearing on a certain motion under certain circumstances; authorizing the court to dismiss a certain motion without a hearing under certain circumstances; authorizing the court to take certain actions in ruling on a certain motion; requiring the court to state the reasons for a certain ruling in a certain manner; establishing that the State has the burden of proof in a certain proceeding; authorizing certain parties to take an appeal from a certain order; and generally relating to postconviction review.

BY adding to
Article – Criminal Procedure
Section 8–303
Annotated Code of Maryland
(2018 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Procedure

8–303.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

(A) ON A MOTION OF THE STATE, AT ANY TIME AFTER THE ENTRY OF A PROBATION BEFORE JUDGMENT OR JUDGMENT OF CONVICTION IN A CRIMINAL CASE, THE COURT WITH JURISDICTION OVER THE CASE MAY VACATE THE PROBATION BEFORE JUDGMENT OR CONVICTION ~~ON THE GROUND THAT:~~

(1) THE DEFENDANT RECEIVED A PROBATION BEFORE JUDGMENT FOR OR WAS CONVICTED OF A CRIME AND THE ACT ON WHICH THE PROBATION BEFORE JUDGMENT OR CONVICTION WAS BASED IS NO LONGER A CRIME;

(2) THE DEFENDANT RECEIVED A PROBATION BEFORE JUDGMENT FOR OR WAS CONVICTED OF POSSESSION OF MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE;

(3) THE DEFENDANT RECEIVED A PROBATION BEFORE JUDGMENT FOR OR WAS CONVICTED OF AN OFFENSE RELATING TO DRUG PARAPHERNALIA FOR MARIJUANA UNDER § 5–619 OF THE CRIMINAL LAW ARTICLE;

(4) THERE IS NEWLY DISCOVERED EVIDENCE THAT:

(I) COULD NOT HAVE BEEN DISCOVERED BY DUE DILIGENCE IN TIME TO MOVE FOR A NEW TRIAL UNDER MARYLAND RULE 4–331(C); AND

(II) CREATES A SUBSTANTIAL OR SIGNIFICANT POSSIBILITY THAT THE RESULT WOULD HAVE BEEN DIFFERENT, AS THAT STANDARD HAS BEEN JUDICIALLY DETERMINED; OR

~~(5)~~ THE INTEREST OF JUSTICE AND FAIRNESS JUSTIFIES VACATING THE PROBATION BEFORE JUDGMENT OR CONVICTION.

(B) A MOTION FILED UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) STATE IN DETAIL THE GROUNDS ON WHICH THE MOTION IS BASED;

(3) WHERE APPLICABLE, DESCRIBE ~~THE~~ ANY NEWLY DISCOVERED EVIDENCE; AND

(4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR A HEARING IF A HEARING IS SOUGHT.

(C) (1) THE STATE SHALL NOTIFY THE DEFENDANT IN WRITING OF THE FILING OF A MOTION UNDER THIS SECTION.

(2) THE DEFENDANT MAY FILE A RESPONSE TO THE MOTION WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER THIS SUBSECTION OR WITHIN THE PERIOD OF TIME THAT THE COURT ORDERS.

(D) (1) BEFORE A HEARING ON A MOTION FILED UNDER THIS SECTION, THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED, AS PROVIDED UNDER § 11–104 OR § 11–503 OF THIS ARTICLE.

(2) A VICTIM OR VICTIM'S REPRESENTATIVE HAS THE RIGHT TO ATTEND A HEARING ON A MOTION FILED UNDER THIS SECTION, AS PROVIDED UNDER § 11–102 OF THIS ARTICLE, AND HAS THE RIGHT TO BE HEARD AT THE HEARING

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING ON A MOTION FILED UNDER THIS SECTION IF THE MOTION SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND A HEARING WAS REQUESTED.

(2) THE COURT MAY DISMISS A MOTION WITHOUT A HEARING IF THE COURT FINDS THAT THE MOTION FAILS TO ASSERT GROUNDS ON WHICH RELIEF MAY BE GRANTED.

(F) (1) IN RULING ON A MOTION FILED UNDER THIS SECTION, THE COURT, AS THE COURT CONSIDERS APPROPRIATE, MAY:

(I) VACATE THE CONVICTION OR PROBATION BEFORE JUDGMENT AND DISCHARGE THE DEFENDANT; OR

(II) DENY THE MOTION.

(2) THE COURT SHALL STATE THE REASONS FOR A RULING UNDER THIS SECTION ON THE RECORD.

(G) THE STATE IN A PROCEEDING UNDER THIS SECTION HAS THE BURDEN OF PROOF.

(H) AN APPEAL MAY BE TAKEN BY EITHER PARTY FROM AN ORDER ENTERED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

UNIVERSITY of MARYLAND
FRANCIS KING CAREY
SCHOOL OF LAW

Douglas Colbert, Esq.
Professor of Law
Access to Justice Clinic: Effective Assistance of Counsel at Bail

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February 25, 2019

The Honorable Luke Clippinger
Chair, House Judiciary Committee
6 Bladen Street
Annapolis, Maryland 21401

Re: HB 874

Dear Chairman Clippinger and House Judiciary Members,

I write in strong support of HB 874 in my individual capacity as a full-time law professor at Maryland Francis King Carey School of Law, where I currently teach Legal Profession and professional ethics, constitutional criminal procedure, and criminal justice courses.

Proposed HB 874 provides statutory authority for Maryland prosecutors to take remedial action and vacate a defendant's prior conviction or probation of judgment (PBJ) sentence in any of the following situations. First, the crime itself may no longer exist. Second, the previous conviction or PBJ involved possession of marijuana or of marijuana paraphernalia. Third, newly-discovered evidence raises a "substantial or significant possibility" of a different outcome had the evidence been introduced at trial. See, section 8-303 (A)(4)(II). Lastly, the interests of justice and fairness require a court vacating the prior conviction or PBJ. I find each of these grounds to justify and explain why a prosecutor would properly initiate a motion to vacate.

Essentially, HB 874 incorporates into law a prosecuting attorney's ethical obligation to do justice and to exercise discretion in a manner consistent with assuming the role of a "minister of justice." Maryland Rule 19-303.8, comment 1; American Bar Association Rule 3.8. In clear terms, a prosecutor's duty as an advocate extends beyond convicting the guilty; it also includes taking "special precautions to prevent and to rectify conviction of innocent persons." Id. at cmt. 1. A prosecutor also must be permitted to exercise its charging responsibilities in a manner that takes into account the office's limited resources in fighting serious and violent crime. While some may disagree with a prosecutor's choices, HB 874 recognizes prosecutorial power and discretion to select which crimes merit prosecution and where resources can be used more wisely and prudently by refraining to prosecute marijuana possession cases.

HB 874 provides the requisite due process that allows a judge to review the grounds raised and the newly-discovered evidence presented, while giving notice to the defendant and crime victim to attend and presumably the opportunity to respond and be heard. For all of these reasons, I urge your approval and passage of HB 874.

Sincerely,

Doug Colbert

Professor Doug Colbert

LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401
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February 25, 2019

Delegate Luke Clippinger
Chairman
Judiciary Committee
Room 101
House Office Building
Annapolis, MD 21401

Re: HB0874 - Criminal Procedure – Post-Conviction Review - State's Motion to Vacate

Dear Chairman Clippinger and Committee Members:

I am writing in support of HB0874, *Post-Conviction Review – State's Motion to Vacate*, sponsored by Delegate Erek L. Barron, and co-sponsored by Delegate Charles Sydnor and others, and scheduled to be heard before your committee on February 26, 2019 at 1:00 pm.

This bill will provide a mechanism for prosecutors throughout Maryland to file motions to The Court to vacate unjust and wrongful convictions. As you know, probations before judgment and other criminal convictions can have severe consequences beyond time spent on probation or incarcerated. Indeed, a criminal record can make one ineligible for employment, and potentially impact an individual's access to private and public housing, student loans, military service and legal status to remain in the United States.

For those who have been convicted of offenses which are no longer a crime and in such other instances where "fairness and justice" dictate, prosecutors have an affirmative responsibility to seek justice by righting the wrongs of the past, present and future. And, as we as a society seek to find new ways to encourage hope, and to provide access and opportunity for those who most need it, passage of this bill is a necessary step towards that end.

For these reasons, HB0874 has the full support of the Legislative Black Caucus of Maryland, Inc. Please do not hesitate to contact me if I can answer any questions.

Sincerely,

Darryl Barnes
Chair, Legislative Black Caucus of Maryland

Edith Patterson
1st Vice Chair, Legislative Black Caucus of Maryland

ERIC L. BARRON
Legislative District 24
Prince George's County

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Subcommittees
Government Operations and Estates and Trusts

Public Health and Minority Health Disparities

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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 26, 2019

Delegate Luke Clippinger
Chairman, House Judiciary
Vanessa Atterbeary
Vice Chair, House Judiciary
House Office Building
Annapolis, MD 21401

Re: Request for a favorable report on House Bill 874

Dear Chair Clippinger, Vice Chair Atterbeary and Members of the Judiciary Committee:

Sometimes, long before the defendant, it is the prosecutor who may learn of credible and material information of a wrongful conviction or sentence or some other reason to make a reexamination of a case after it has become final. In Maryland, there is no clear tool for the prosecutor when this happens.

House Bill 874 provides a mechanism for a prosecutor to do what he or she is legally, ethically, and by well-tread standards, bound to do. As an attorney and officer of the court, the prosecutor is unique and by codifying this responsibility, the proposed provisions would not only protect individual rights but also serve to enhance public confidence in our justice system.

The U.S. Supreme Court, in *Berger v. United States*, 295 U.S. 78, 88 (1935), stated that prosecutors have special obligations as representatives "not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done."

The Maryland Lawyer's Rules of Professional Conduct has particular rules for prosecutors – the Comments to Rule 3.8, Special Responsibilities of a Prosecutor, state: "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate."

The National District Attorneys Association, National Prosecution Standards 8-1.8 states, "When the prosecutor is satisfied that a convicted person is actually innocent, the prosecutor should notify the appropriate court…and seek the release of the

defendant if incarcerated. If the prosecutor becomes aware of material and credible evidence which leads him or her to reasonably believe a defendant may be innocent of a crime for which the defendant has been convicted, the prosecutor should disclose, within a reasonable period of time, as circumstances dictate, such evidence to the appropriate court." These standards also say that the "primary responsibility of a prosecutor is to seek justice, which can only be achieved by the representation and presentation of the truth" and that this responsibility includes "that the innocent are protected from unwarranted harm."

This standard is also embedded within the American Bar Association's Criminal Justice Standards for the Prosecution Function, Standard 3-8.3, which says that "[i]f a prosecutor learns of credible and material information creating a reasonable likelihood that a defendant was wrongfully convicted or sentenced or is actually innocent, the prosecutor should...develop policies and procedures to address such information, and take actions that are consistent with applicable law, rules, and the duty to pursue justice."

The American Bar Association Model Rules of Professional Responsibility, Rule 3.8(g) and (h) outlines "Special Responsibilities of a Prosecutor" requiring, among other things, that if he or she knows of clear and convincing evidence establishing a wrongful conviction, the prosecutor shall seek to remedy the conviction.

Thus, a prosecutor has clearly established obligations under case law, ethical rules, and standards established by national prosecutor organizations. House Bill 874 provides a clear mechanism for him or her to fulfill these responsibilities. Under the bill, it's still up to a judge to make the ultimate decision.

This is simply one tool to empower a prosecutor, at his or her discretion, to do justice and I urge your favorable vote.

Respectfully,

Erek L. Barron

Delegate Erek L. Barron

ACLU Maryland

Testimony for the House Judiciary Committee
February 26, 2019

TONI HOLNESS
PUBLIC POLICY DIRECTOR

HB 874 Criminal Procedure - Postconviction Review - State's Motion to Vacate

FAVORABLE

The ACLU of Maryland urges a favorable report on HB 874, which would allow courts to vacate a probation before judgment or conviction in certain circumstances.

A criminal record severely undermines an individual's employability in the job market, which bars reentry into society and thereby predisposes that individual to further criminal justice entanglement. The collateral consequences reach far beyond employment—a criminal record may compromise one's eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

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Criminal records for non-violent offenses excludes individuals from employment, educational opportunities, public benefits, and stable housing

The existence of a criminal record can and does create a barrier to employment for many Marylanders. Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a barber license,[1] a cosmetology license,[2] an electrician license,[3] professional engineer license,[4] a landscape architect license,[5] an interior designer certificate,[6] and countless others.

Misdemeanor convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.[7] A misdemeanor conviction also hinders an individual's access to stable housing and a range of public benefits. A misdemeanor conviction record may bar individuals from residing at certain homes,[8] and exclude individuals from low-income utility payment plans[9] as well as food stamps.[10]

HB 874 will allow for individuals with certain convictions to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy. By

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[1] Md. Business Occupations and Professions, Code Ann. § 4-314
[2] Md. Business Occupations and Professions, Code Ann. § 5-314
[3] Md. Business Occupations and Professions, Code Ann. § 6-316.
[4] Md. Business Occupations and Professions, Code Ann. § 14-317.
[5] Md. Business Occupations and Professions, Code Ann. § 9-310.
[6] Md. Business Occupations and Professions, Code Ann. § 8-310.
[7] Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf).
[8] *See for example*, COMAR 35.04.01.04.
[9] COMAR 20.31.01.08.
[10] Md. Human Services Code Ann. § 5-601.

increasing access to this broad range of services, HB 874 can be expected to generate greater socioeconomic stability and productivity in Maryland's communities.

Misdemeanor convictions disparately disadvantage individuals, families, and communities of color

A startling one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latino men, and one in seventeen White men.[11] In addition to facing higher imprisonment rates, persons of color, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their White counterparts.[12] With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from misdemeanor convictions.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 874.

AMERICAN CIVIL
LIBERTIES UNION OF
MARYLAND

[11] Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (Huffington Post, Oct. 4, 2013).
[12] *Id.*

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February 25, 2019

The Honorable Luke Clippinger
Chair, House Judiciary Committee
6 Bladen Street
Annapolis, Maryland 21401

Re: HB 874

Dear Chairman Clippinger and House Judiciary Members,

I write in strong support of HB 874 in my individual capacity as a full-time law professor at Maryland Francis King Carey School of Law, where I currently teach Legal Profession and professional ethics, constitutional criminal procedure, and criminal justice courses.

Proposed HB 874 provides statutory authority for Maryland prosecutors to take remedial action and vacate a defendant's prior conviction or probation of judgment (PBJ) sentence in any of the following situations. First, the crime itself may no longer exist. Second, the previous conviction or PBJ involved possession of marijuana or of marijuana paraphernalia. Third, newly-discovered evidence raises a "substantial or significant possibility" of a different outcome had the evidence been introduced at trial. See, section 8-303 (A)(4)(II). Lastly, the interests of justice and fairness require a court vacating the prior conviction or PBJ. I find each of these grounds to justify and explain why a prosecutor would properly initiate a motion to vacate.

Essentially, HB 874 incorporates into law a prosecuting attorney's ethical obligation to do justice and to exercise discretion in a manner consistent with assuming the role of a "minister of justice." Maryland Rule 19-303.8, comment 1; American Bar Association Rule 3.8. In clear terms, a prosecutor's duty as an advocate extends beyond convicting the guilty; it also includes taking "special precautions to prevent and to rectify conviction of innocent persons." Id. at cmt. 1. A prosecutor also must be permitted to exercise its charging responsibilities in a manner that takes into account the office's limited resources in fighting serious and violent crime. While some may disagree with a prosecutor's choices, HB 874 recognizes prosecutorial power and discretion to select which crimes merit prosecution and where resources can be used more wisely and prudently by refraining to prosecute marijuana possession cases.

HB 874 provides the requisite due process that allows a judge to review the grounds raised and the newly-discovered evidence presented, while giving notice to the defendant and crime victim to attend and presumably the opportunity to respond and be heard. For all of these reasons, I urge your approval and passage of HB 874.

Sincerely,

Doug Colbert

Professor Doug Colbert