

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0906

September Term, 2015

DENNIS MERCHANT

v.

STATE OF MARYLAND

Krauser, Chief Judge,
Meredith,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Krauser, C.J.

Filed: July 14, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After the Circuit Court for Prince George’s County revoked the conditional release of appellant, Dennis Merchant, and ordered his continued commitment to the Department of Health & Mental Hygiene (DHMH) for institutional inpatient care and treatment, he filed an application for leave to appeal, which this Court granted. We then certified to the Court of Appeals the following two questions:

(1) Did the circuit court err in determining that the statutory scheme, set forth in Crim. Proc., §§ 3-114, et seq., for the granting and/or revocation of the conditional release of a committed person violates the separation of powers provision found in Article 8 of the Maryland Declaration of Rights and is thus void as unconstitutional?

(2) Did the circuit court err in revoking Merchant’s conditional release and ordering his continued commitment for institutional inpatient care and treatment after the ALJ [Administrative Law Judge] had found that Merchant was eligible for conditional release and had recommended the same?

In a decision filed on May 23, 2016, the Court of Appeals answered both questions in the affirmative, that is, they determined that the circuit court had (1) erred in its interpretation of the statutory scheme, set forth in Crim. Proc., §§ 3-114, et seq., for the granting and/or revocation of the conditional release of a committed person and (2) erred in revoking Merchant’s conditional release and ordering his continued commitment for institutional inpatient care and treatment after the ALJ had found that Merchant was eligible for conditional release and had recommended the same. *See Dennis Merchant v. State of Maryland*, ___ Md. ___, No. 16, September Term, 2015 (filed May 23, 2016). Accordingly, we vacate the May 28, 2015, order of the circuit court revoking Merchant’s conditional release and ordering his continued commitment to the DHMH for institutional inpatient care

and treatment and remand this case to the circuit court for further proceedings consistent with the decision of the Court of Appeals.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY
VACATED. CASE REMANDED TO THE
CIRCUIT COURT FOR FURTHER
PROCEEDINGS CONSISTENT WITH THE
OPINION OF THE COURT OF APPEALS.
COSTS TO BE PAID BY PRINCE
GEORGE'S COUNTY.**