Amicus Curiarum

VOLUME 42
ISSUE 7 JULY 2025

A Publication of the Office of the State Reporter

Table of Contents

THE SUPREME COURT

THE APPELLATE COURT

Return to ToC

SUPREME COURT OF MARYLAND

Robert L. Fooks v. State of Maryland, No. 24, September Term 2022, filed June 6, 2025. Opinion by Fader, C.J.
Watts, J., concurs.
Gould, J., concurs.
Biran, J., dissents.

https://www.mdcourts.gov/data/opinions/coa/2025/24a22.pdf

CONSTITUTIONAL LAW – SECOND AMENDMENT – FELON-EQUIVALENT DISPOSSESSION STATUTE – PUBLIC SAFETY ARTICLE § 5-133(b)(2)

Facts:

In 2016, Robert L. Fooks was convicted of constructive criminal contempt for his willful failure to pay child support. He received a sentence of imprisonment for four years and six months. Four years later, Mr. Fooks was determined to be in possession of a handgun in two instances. Mr. Fooks was indicted for violations of § 5-133(b)(2) of the Public Safety Article, which prohibits possession of regulated firearms by individuals who have been convicted of a common law crime and were sentenced to more than 2 years' imprisonment. The Circuit Court for Wicomico County rejected Mr. Fooks's argument that § 5-133(b)(2) violated his Second Amendment right to possess a firearm. Mr. Fooks then entered a conditional guilty plea to two firearms-related counts.

On appeal to the Appellate Court of Maryland, Mr. Fooks relied on the Supreme Court of the United States's decision in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), to argue that § 5-133(b)(2) was facially unconstitutional or, alternatively, unconstitutional as applied to him. The Appellate Court disagreed and affirmed Mr. Fooks's convictions. The Supreme Court of Maryland granted certiorari to address three issues: (1) the proper framework for analyzing Second Amendment challenges post-*Bruen;* (2) whether the Appellate Court properly applied that framework; and (3) the constitutionality of § 5-133(b)(2). After oral arguments but before a decision was released, the Supreme Court of the United States heard and decided *United States v. Rahimi*, 602 U.S. 680 (2024), in which the Court clarified the test set forth in *Bruen*.

Return to ToC

Held: Affirmed.

The Supreme Court of Maryland held that § 5-133(b)(2) is, in purpose and effect, a prohibition on the possession of firearms by felons. The Court highlighted that § 5-133(b)(2) is analogous to the federal felon dispossession statute, both of which classify felonies based on the maximum sentence for the offense. Mr. Fooks was sentenced to a term of imprisonment exceeding four years, a greater sentence than necessary to qualify as a felony under federal law and the laws of any of the 22 states classifying felonies based on the length of the maximum available sentence. Accordingly, the Court held that § 5-133(b)(2) is the equivalent of a felon dispossession statute.

The Court held that § 5-133(b)(2) is constitutional on its face. The Court cited 17 years of considered dicta in Supreme Court opinions identifying felon dispossession statutes as presumptively lawful regulatory measures. The Court rejected Mr. Fooks's argument that such prohibitions must be premised on an individualized assessment of dangerousness, noting that relevant statements in *District of Columbia v. Heller*, 554 U.S. 570 (2008), *Bruen,* and *Rahimi* referenced felon dispossession regulations generally. The Court rejected Mr. Fooks's argument that § 5-133(b)(2) inappropriately absolved the State from its burden of proving disqualification. The Court noted that a law premising disqualification on the length of a sentence *received* for an offense is more tailored to the individual defendant than a law premised on the length of a sentence that may theoretically be imposed for the offense.

The Court then held that § 5-133(b)(2) is also facially constitutional because it is consistent with our nation's historical tradition of firearm regulation. Turning to early American history, the Court found that legislatures approved regulations that categorically disarmed individuals based on membership in a group rather than demonstrated individual dangerousness. For example, states categorically disarmed religious and ethnic minorities as well as people who refused to declare an oath of loyalty. Similarly, felons were also historically barred from possessing firearms by way of execution or forfeiture of estate. These historical regulations and practices, while many are now unconstitutional under the Fourteenth Amendment, furnish a historical analogue to § 5-133(b)(2)'s categorical dispossession of persons sentenced to at least two years' imprisonment for violating the law. Consistent with this history, the Court concluded that legislatures possessed the discretion to disarm persons with felony convictions without an individualized determination of dangerousness.

Finally, the Court rejected Mr. Fooks's alternative, as-applied argument that a court must individually determine that he is a violent or dangerous person. The Court observed that Mr. Fooks's willful refusal to pay court-ordered child support constituted a particularly egregious flaunting of the court system and a refusal to meet one of society's most basic obligations, sufficiently serious to have received a sentence of incarceration of more than four years.

Return to ToC

APPELLATE COURT OF MARYLAND

Joe Johnson v. Spireon, Inc., No. 317, September Term 2024, filed June 27, 2025. Opinion by Tang, J.

Friedman, J., concurs.

https://www.mdcourts.gov/data/opinions/cosa/2025/0317s24.pdf

COURTS – CONCURRENT AND CONFLICTING JURISDICTION – COURTS OF SAME STATE – TRANSFER OF CAUSES – EFFECT OF TRANSER AND PROCEEDINGS HAD THEREAFTER – IMPROPER TRANSFER

COSTS, FEES, AND SANCTIONS – SANCTIONS – IN GENERAL – AUTHORITY TO IMPOSE – IN GENERAL

CORPORATIONS AND BUSINESS ORGANIZATIONS – DEPENDING ON COMPLIANCE WITH STATUTORY REQUIREMENTS

Facts:

Joe Johnson ("Johnson"), a pro se litigant with paralegal training, filed a lawsuit against Spireon, Inc. in the District Court of Maryland for Prince George's County seeking $25,000 in damages. He demanded a jury trial, and the District Court transferred the case to the Circuit Court for Prince George's County. Spireon, Inc. moved to dismiss the claims, which led to a series of filings by Johnson and responses from Spireon, Inc. Ultimately, the court dismissed the claims with prejudice on grounds of *res judicata*.

Under Maryland Rule 1-341, Spireon, Inc. sought an award of attorneys' fees incurred in defending itself against the action. After a hearing, the court granted the motion, finding that Johnson maintained the action in bad faith and without substantial justification. The court ordered Johnson to pay Spireon, Inc. $84,321 in attorneys' fees.

On appeal, Johnson challenged the entry of the order dismissing the claims and the order granting relief under Rule 1-341.

Held: Affirmed in part, reversed in part.

Courts & Judicial Proceedings Article § 4-402(e)(1) provides that "In a civil action in which the amount in controversy does not exceed $25,000, exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party may not demand a jury trial pursuant to the Maryland Rules." The Appellate Court held that the circuit court never acquired subject matter jurisdiction over the action when Johnson improperly demanded a jury in the District Court, where the amount in controversy in his original complaint was $25,000. The amended complaint subsequently filed by him in the circuit court, after the improper jury demand, was a nullity. By extension, the order dismissing the claims in the amended complaint were also null and void. Accordingly, the Appellate Court vacated the circuit court's order dismissing Johnson's claims with prejudice and remanded the case for the court to strike Johnson's improper jury demand and transfer the case back to the District Court for further proceedings.

However, the Appellate Court held that, because a Rule 1-341 proceeding is an independent proceeding supplemental to the underlying action and collateral to the merits, a trial court's lack of subject matter jurisdiction over the action does not deprive the court of its remedial authority to consider a motion under Rule 1-341.

The Appellate Court rejected Johnson's contention that § 7-301 of the Corporations and Associations Article of the Maryland Code ("CA"), which bars unregistered foreign corporations from maintaining a "suit," precludes such entities from seeking costs under Rule 1-341. The Appellate Court held that this statutory bar does not preclude such corporation from seeking relief under Maryland Rule 1-341.

On the merits, the Appellate Court held that the circuit court did clearly err in finding that Johnson pursued and maintained the lawsuit in bad faith. It also held that the circuit court did not abuse its discretion in finding that the fees requested were reasonable. Accordingly, the Appellate Court affirmed the circuit court's order granting Spireon, Inc.'s motion for attorneys' fees under Rule 1-341.

Return to ToC

Aaron Scott Vangorder v. State of Maryland, No.172, September Term 2024, filed June 2, 2025. Opinion by Eyler, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/0172s24.pdf

CRIMINAL LAW – SEXUAL OFFENSES AGAINST MINORS

Facts:

After a jury trial in the Circuit Court for Wicomico County, Aaron Scott Vangorder, appellant, was found guilty of sexual abuse of a minor by a household member, § 3-602(b)(2) of the Criminal Law ("CR") Article of the Maryland Code; sexual abuse of a minor (other than rape and incest) by a person having temporary supervision, CR § 3-602(b)(1); two counts of third-degree sexual offense, CR § 3-307; two counts of fourth-degree sexual offense, CR § 3-308(b)(1); three counts of second-degree assault, CR § 3-203; and sexual solicitation of a minor, CR § 3-324. Appellant was acquitted of two other charges, one count of third-degree sexual offense and one count of fourth-degree sexual offense.

Held: Reversed.

The trial court erred in admitting evidence of appellant's sexual orientation. Evidence of sexual orientation is irrelevant in child sexual abuse cases when the child is pre-adolescent and when, as here, there is no evidence linking sexual orientation with child abuse. Although the convictions are reversed, for purposes of any retrial, the evidence is legally sufficient to sustain the convictions.

Return to ToC

Maryland Department of Health v. Jeffrey Boulden, et al., Nos. 534, 581, 582, 641, 643, 996 & 1291, September Term, 2024. Opinion by Graeff, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/0534s24.pdf

CONSTRUCTIVE CIVIL CONTEMPT – STATUTORY SANCTIONS

Facts:

In this consolidated appeal, the Maryland Department of Health (the "Department") challenges seven separate orders that were issued due to its failure to timely admit appellees, who had been found incompetent to stand trial ("IST") and dangerous, to a psychiatric facility. Six of these orders involved the imposition of statutory sanctions pursuant to Md. Code Ann., Crim. Proc. ("CP") § 3-106(c)(4) (2024 Supp.), one issued by the Circuit Court for Kent County and five issued by the Circuit Court for Baltimore County. One order, issued by the Circuit Court for Dorchester County, found the Department in constructive civil contempt for the failure to comply with a court order to admit Jermell Lamar Savage, appellee, to a Department facility within ten days of his commitment order.

Held:

Judgment of the Circuit Court for Dorchester County reversed, judgments of the Circuit Court for Baltimore County affirmed in part, and reversed in part, and judgment of the Circuit Court for Kent County affirmed.

Where the court finds an individual to be IST and dangerous, the Department is required, under CP § 3-106(c)(4), to admit the defendant to a designated health facility within ten business days of the commitment order. If the Department does not admit the defendant to a Department facility within that time period, the defendant can seek to compel compliance by filing an action for constructive civil contempt or an action for statutory sanctions under CP § 3-106(c)(4).

Constructive civil contempt requires a finding, based on evidence, of a willful failure to comply with the court's commitment order. In the Dorchester County case, the only evidence presented in support of the contempt petition was that the Department had taken action to alleviate the bed shortage in its facilities, but there were still not enough beds to comply with the court's commitment order. Without evidence that the Department could have done more to comply with the order, the mens rea element of constructive civil contempt, i.e., willfulness, is not satisfied. Because the record does not support the finding that the Department willfully failed to comply with the Dorchester County commitment order, the court's finding in this regard was clearly erroneous, and it abused its discretion in holding the Department in contempt.

In addition to a contempt finding, a court can impose sanctions on the Department pursuant to CP § 3-106. To find a violation of CP § 3-106(c)(2), the court needs to determine only that the Department failed to admit the defendant to a designated health facility within the statutorily required ten-day period. Evidence that the Department could not comply with commitment orders due to the unavailability of beds does not categorically preclude sanctions under CP § 3-106(c)(4). If the court finds a failure to timely admit a defendant, the statute provides for the imposition of sanctions "reasonably designed to compel compliance."

Although the statute does not define the term "reasonably designed to compel compliance," the legislative history makes clear that the intent of the General Assembly in enacting CP § 3-106(c)(4) was to impose a deadline for admission, with sanctions to enforce compliance. Given the increasing problem of a failure to timely admit defendants, it was reasonable for the courts to believe that large statutory sanctions would encourage the Department to explore all options to resolve this continued problem.

That two of the defendants, Glenn D. Hawkins and Kennard Jacobi Goins, had been admitted to a Department facility prior to the sanctions hearing did not prohibit the court from imposing sanctions under CP § 3-106(c)(4). The statute does not contain any language stating that reimbursement or other sanctions cannot be imposed once the patient has been admitted to a Department facility. Construing the statute to limit sanctions, including reimbursement to detention centers, when the Department has already admitted a defendant to a facility prior to the sanctions hearing would add words to the statute and frustrate the legislature's express intent to allow for reimbursement to the detention center for costs incurred in housing defendants that should be in a Department facility.

In the Kent County case involving Jeffrey Boulden, and in the Baltimore County cases involving William Damond Lomax, Malik T. Jackson, Mr. Goins, Mr. Hawkins, and Steven R. Kauffman, the court did not abuse its discretion in its decision to impose sanctions. With respect to the amount of sanctions, however, we construe the statute to authorize the calculation of daily sanctions beginning on the 11th business day from the date of the commitment order. In the Baltimore County cases involving Mr. Lomax, Mr. Jackson, Mr. Goins, and Mr. Hawkins, the court did not calculate the daily sanctions beginning on the 11th business day. We reverse those orders and remand for a new calculation regarding the amount of sanctions.

Return to ToC

Lance Cutchember v. State of Maryland, No. 1474, September Term 2023, filed June 2, 2025. Opinion by Woodward, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1474s23.pdf .

CRIMINAL LAW – CRIMINAL PROCEDURE ARTICLE ("CP") § 1-211 – PROHIBITION AGAINST SEARCHES BASED SOLELY ON ODOR OF BURNT OR UNBURNT CANNABIS – REMEDY OF EXCLUSION OF EVIDENCE DOES NOT APPLY TO SEARCHES OCCURING PRIOR TO EFFECTIVE DATE OF CP § 1-211, JULY 1, 2023

Facts:

On January 6, 2023, the police conducted a traffic stop of a motor vehicle driven by Lance Cutchember, appellant. Based only on an odor of cannabis coming from appellant's vehicle, the police searched the vehicle and recovered cannabis, N,N-Dimethylpentylone ("MDMA"), a Schedule I Controlled Dangerous Substance, and a digital scale with MDMA residue. Appellant was arrested and charged with possession of MDMA and a digital scale with MDMA residue. On August 23, 2023, the circuit court held a hearing on appellant's motion to suppress the evidence recovered by the police from his vehicle, and denied the same. On September 28, 2023, appellant entered a conditional guilty plea to possession of MDMA.

Between the search of appellant's vehicle on January 6, 2023, and the suppression hearing on August 23, 2023, CP § 1-211 became effective on July 1, 2023. CP § 1-211 provides, in relevant part, that under subsection (a) a law enforcement officer may not search a motor vehicle based solely on the odor of burnt or unburnt cannabis, and under subsection (c) evidence discovered or obtained "in violation of this section" is not admissible in a trial, a hearing, or any other proceeding. At the suppression hearing, appellant argued that CP § 1 211 should be applied retroactively to the search of his vehicle, and thus the evidence recovered by the police should be suppressed. The trial court disagreed, determining that CP § 1-211 was not retroactive and that at the time of the stop, January 6, 2023, the odor of cannabis gave the police probable cause to search appellant's vehicle. Appellant noted a timely appeal from the sentence imposed on his conditional guilty plea.

During the pendency of the instant appeal, this Court issued its opinion in *Kelly v. State,* 262 Md. App. 295 (2024). In *Kelly*, we held that CP § 1-211 was "intended to apply prospectively from its effective date of July 1, 2023." Id. at 311. However, in *Kelly*, the search, suppression hearing, conviction, and sentencing all occurred before the statute's effective date of July 1, 2023. Therefore, the Appellate Court asked the parties to submit supplemental briefing on the following question:

> In a case where the search occurred prior to July 1, 2023, but the trial or hearing at which the evidence was sought to be admitted or excluded occurred after July

1, 2023, which event should the Court view as establishing the operative date in determining whether CP § 1-211 applies?

Held: Affirmed.

The Appellate Court held that the operative date for determining the applicability of CP § 1-211 is the date of the search.

The Appellate Court addressed appellant's contention that the procedural posture of Kelly was central to the Court's decision and that the "critical difference" between the procedural posture of *Kelly* and the instant appeal warranted a different result. The Appellate Court disagreed, stating that the difference in the procedural posture between *Kelly* and the instant case was "a distinction without a difference." First, the Appellate Court noted the *Kelly* Court's reliance on *Street v. Commonwealth*, 876 S.E.2d 202 (Va. Ct. App. 2022). In *Street*, the Virginia Court of Appeals interpreted a statute virtually identical to CP § 1-211. More importantly, the procedural posture of *Street* was exactly the same as that of the instant appeal. Second, although the *Kelly* Court referred to the procedural posture of that case when it articulated the issue and its holding, the rationale behind *Kelly*'s holding focused, not on the procedural posture, but on the language of CP § 1-211. According to the Appellate Court, the language of CP § 1-211(c) limited the availability of the "remedy of exclusion" to evidence discovered "*in violation of the* 'right' established by the statute." *Kelly*, 262 Md. App. at 307, 308 (emphasis added). The Appellate Court concluded that the date of the search is the key event in determining whether the right created by CP § 1 211(a) in fact existed and thus whether a violation of that right had occurred under CP § 1-211(c).

The Appellate Court also rejected appellant's contention that the language of CP § 1-211 did not reflect an intent by the legislature for the statute to apply only to cases where the search occurred after the effective date of July 1, 2023. The Appellate Court pointed to the *Kelly* Court's determination that CP § 1-211 indicated a "clear" intent on the part of the General Assembly that the statute should be applied prospectively. *Id*. at 308-309. The *Kelly* Court explained that CP § 1-211(a) created the "right" at issue, i.e., the prohibition against searches of automobiles based solely on the odor of burnt or unburnt cannabis, because prior to the effective date of CP § 1-211, Maryland courts adhered to the general rule that the odor of cannabis is evidence of a crime and therefore justifies a warrantless search of an automobile. *Id*. Then, when CP § 1-211(c) expressly made the remedy of exclusion of evidence contingent upon a violation of that right created by the statute, the *Kelly* Court concluded that the General Assembly had sent a "clear message" that CP § 1 211 "was not merely procedural or remedial, but rather was a substantive change to existing rights[.]" *Id*. at 309.

The Appellate Court concluded that CP § 1-211(a) created a statutory right not heretofore recognized in Maryland law, to wit, a prohibition against searches of motor vehicles based solely on the odor of cannabis. CP § 1-211(c) provided a remedy of exclusion of evidence expressly contingent upon a violation of the right created by the statute. Because a search cannot violate a

nonexistent statutory right, the exclusionary remedy of CP § 1-211(c) cannot apply to a search that took place before the statute's effective date of July 1, 2023.

Return to ToC

In the Matter of William Pughsley, No. 1489, September Term 2023, filed June 2, 2025. Opinion by Beachley, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1489s23.pdf

VOTING RIGHTS – DISQUALIFICATION UNDER ELECTION LAW – ADULTS UNDER GUARDIANSHIP FOR MENTAL DISABILITY

SUPPORTED DECISION-MAKING ACT (ESTATES AND TRUSTS § 18-101 ET SEQ.) – STATUTORY REQUIREMENTS FOR VALID AGREEMENT UNDER ACT

Facts:

Samuel and Juanita Pughsley ("Parents") served as the guardians of their son, William Pughsley, who is under a mental disability. The Parents sought to modify the guardianship order to, *inter alia*, allow them to assist William to vote, and name the Parents as "supported decisionmakers" under the Supported Decision-Making Act ("SDMA"), Md. Code (1974, 2022 Repl. Vol.), § 18-101 et seq. of the Estates and Trusts Article. William consented to the relief sought in Parents' petition. The Circuit Court for Prince George's County ruled that William was not qualified to vote and generally denied the request to modify the guardianship of William's person, without specifically addressing Parents' request to approve them as supported decisionmakers under the SDMA.

Held: Reversed and remanded for further proceedings in the circuit court.

Maryland's voting disqualification statute applies when an otherwise qualified individual "is under guardianship for mental disability and a court . . . has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process[.]" Md. Code (2003, 2022 Repl. Vol.), § 3 102(b)(2) of the Election Law Article ("EL"). The Appellate Court of Maryland held that the circuit court erred in disqualifying William from voting by erroneously engrafting an additional, impermissible test requiring the prospective voter to demonstrate a "base level understanding of the political process, of why he's voting for a particular person[.]"

The circuit court also erred by improperly denying William "accommodations" to assist him in communicating his "desire to participate in the voting process[.]" *See* EL § 3-102(b)(2). The Appellate Court held that "nothing in the Election Law statute would preclude Parents from offering reasonable help to William as an accommodation contemplated by the disqualification statute."

Because the circuit court interpreted Parents' petition requesting approval as supported decision-makers to be limited to voting rights, the court denied their requests to be designated supported

decision-makers pursuant to the SDMA. On remand for reconsideration of William's voting rights, Parents may submit for consideration a supported decision-making agreement that complies with the SDMA.

Return to ToC

Cedric Sims v. Rebekah Sims, No. 1787, September Term 2024, filed June 30, 2025. Opinion by Nazarian, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1787s24.pdf
DIVORCE – AWARDING MONETARY AWARD – THE THREE-STEP PROCESS
DIVORCE – MONETARY AWARD – SEPARATE OR MARITAL PROPERTY
DIVORCE – EXTANT MARITAL PROPERTY – DISSIPATION
DIVORCE – EXTANT MARITAL PROPERTY – DISSIPATION
DIVORCE – ALIMONY – REQUIRED FACTORS
DIVORCE – CHILD SUPPORT – INCOME ABOVE THE GUIDELINES
DIVORCE – CHILD SUPPORT – ARREARAGES
DIVORCE – INTERRELATED AWARDS

Facts:

Cedric ("Husband") and Rebekah Sims ("Wife") were married on September 29, 1996. They had four children, three of whom are emancipated and one of whom remains a minor. The couple separated in January 2020, after Husband left the marital home. On November 28, 2022, Wife filed a complaint for Absolute Divorce based in part on adultery, requesting indefinite alimony, child support, a dissipation finding, a monetary award, attorneys' fees, and use and possession of the marital home. Husband filed a counter-complaint requesting: an absolute divorce; that the marital home be sold; that the court divide the parties' marital property; that the court deny Wife's alimony claim; that the court transfer his interest in the marital home to Wife, including the equity; and that the court award him a monetary award.

On October 8, 2024, the Circuit Court for Anne Arundel County granted Wife an absolute divorce from Husband due to adultery. The court also made several awards to Wife: a rehabilitative alimony for three years; monthly child support with arrearages; a monetary award; attorneys' fees; use and possession of the marital home for three years, during which Husband would pay the home's mortgage and insurance and transfer his interest in the property; and Husband to pay the minor child's tuition expenses. The court also found Husband to have dissipated some of the parties' marital assets.

Held: Vacated and Remanded.

Husband appealed, challenging the monetary, alimony, child support, and attorneys' fees awards, the obligation to pay the mortgage on the marital home, and the dissipation finding.

At the threshold, the Court held that because the circuit court erred in completing the three-step process, the resulting monetary award was erroneous. The three-step process requires a circuit

court to consider a monetary award to identify which property is marital, determine the value of the marital property, and consider various factors set forth in FL § 8-205, and to grant a monetary award based on that consideration as an adjustment of any inequity among the parties. Md. Code (1999, 2019 Repl. Vol.), § 8 205 of the Family Law Article ("FL").

At step one, the Court held that the circuit court erred in not finding certain assets that both parties stipulated to being marital as marital property. Given that the parties acquired these during their marriage, the Court reasoned that finding them nonmarital was clearly erroneous. At step two, the Court held that the circuit court erred in valuing the parties' marital assets. This included counting one retirement asset twice, and not valuing the parties' bank accounts despite finding each account to be marital property. As a result, the Court concluded that the circuit court erred in its total valuation of the parties' marital property. Before reviewing step three, the Court discussed dissipation and held that the circuit court's dissipation finding was clearly erroneous. And of course, given the Court's conclusions in steps one and two, the Court held that the circuit court will need to re-examine its figures regarding step three—the monetary award calculation.

Next, the Court held that the circuit court erred in awarding rehabilitative alimony under FL § 11-106(b). The Court reasoned that this was due to some of the circuit court's findings being clearly erroneous, as they contradicted the record. And given that the court would reassess that award on remand, it would necessarily reconsider Husband's contentions against the rehabilitative alimony award. As to the mortgage payment obligation, the Court explained that FL §§11-106(b) and 8-208 authorize a circuit court to order one party to pay the mortgage and insurance on the marital home, so that decision from the circuit court was not an error.

The Court also held that, given its decisions regarding the monetary and alimony awards, the circuit court must recalculate the child support award. The Court reasoned that the court must make explicit findings about the minor child's reasonable expenses before granting that award. In addition, the Court held that the circuit court's decision instituting arrearages after the date Wife filed her complaint was an abuse of discretion. As the Court explained, this violated FL § 12-101. And so, the Court vacated the child support obligation and the attendant arrearages.

Finally, the Court vacated the award of attorneys' fees, reasoning that in previous cases where it vacated one of the monetary, alimony, or child support awards, it also vacated the attorneys' fees award.

Return to ToC

In re: K.K., Nos. 129 & 130, September Term 2024, filed June 27, 2025. Opinion by Harrell, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/0129s24.pdf

JUVENILE LAW – DELINQUENCY – DISPOSITION – MODIFICATION OF DISPOSITION

JUVENILE LAW – DELINQUENCY – PROBATION – VIOLATION OF PROBATION

Facts:

K.K., when he was thirteen, admitted to involvement in two counts of what would have been misdemeanor second-degree assault were he an adult. He was placed on six months of supervised probation, including a condition that he obey all laws. While on that probation, he committed another misdemeanor assault, violating his probation. As a consequence, he was placed anew on six months of probation with largely the same conditions as his initial probation. In both cases, no firearm was involved.

Within two months on imposition of his second probationary period, K.K. got into a fight over a vape pen with a fellow student at school. He was arrested and charged with robbery, second-degree assault, and false imprisonment. A third delinquency petition followed. In addition, the State initiated a violation of probation ("VOP") proceeding regarding K.K.'s prior probation. The State alleged several technical violations and the non-technical violation of failure to obey all laws. The State sought revocation of probation.

In January 2024, the Circuit Court for Frederick County, sitting as a juvenile court, held an adjudicatory hearing in K.K.'s third delinquency case. The State dismissed the false imprisonment charge. The court acquitted K.K. regarding the robbery charge. As to the assault charge, the court, applying the proof standard of beyond a reasonable doubt, found K.K. "not involved." In the course of explaining its reasoning, however, the court signaled that it would have no problem, were preponderance of the evidence the applicable standard, finding K.K. "involved" in a second-degree assault.

Turning next to the VOP matter, the court took notice of the evidence adduced during the delinquency petition hearing. The State offered no additional evidence as to any of the charged technical violations of probation. Applying the preponderance standard, the court found that K.K. committed second-degree assault, thus violating his probation. The State asked the court to commit K.K. to the Department of Juvenile Services for out-of-home placement. K.K. argued that, as a result of the General Assembly's 2022 enactment of the Juvenile Justice Reform Act ("JJRA"), § 3-8A-19(d)(3)(i) of the Courts and Judicial Proceedings ("CJP") Article of the Maryland Code, prohibited his commitment for out-of-home placement under these circumstances. Under CJP § 3-8A-19(d)(3)(i), a juvenile may not be committed to the Department for out-of-home placement if the "most serious offense" is (a) possession of

cannabis; (b) an offense that would be a misdemeanor if committed by an adult, unless the offense involved a firearm; (c) a technical violation of probation; or (d) a first-time violation for making a false statement, report, or complaint of an emergency or a crime. K.K. maintained that "when the maximum penalty at the outset of the case was only a community-based probation, . . . if you violate that probation, you can't be then subject to a higher penalty on the violation." The court agreed, however, with the State that the phrase "most serious offense," as used in the statute, referred to K.K.'s ultimate non-technical violation of the "obey all laws" condition of probation, and, thus, he was eligible for out-of-home placement.

While K.K.'s appeal was pending in the Appellate Court, the Department released K.K. from out-of-home placement. Consequently, the State moved to dismiss the appeal as moot. K.K. opposed the motion on two bases: (1) he would suffer collateral consequences unless the unlawful placement was overturned; and (2) even if moot, the Court should exercise its discretion to decide the appeal on its merits because the legal question posed, which was capable of repetition in similar cases, was likely otherwise to evade appellate review.

Held: Reversed.

Motion to dismiss denied. Judgment reversed.

The Court agreed that the appeal was moot. Nonetheless, because it was persuaded that the question pressed by K.K. was one that would arise likely in future cases in similar circumstances and would evade appellate review, the Court exercised its discretion to entertain the merits of this matter of public importance.

K.K. posed a single question for consideration:

Did the juvenile court err in committing K.K. to an out-of-home placement for a non-technical violation of probation, where the offenses for which he was on probation were misdemeanor offenses not involving a firearm?

After an extensive review of the principles of statutory interpretation that guide courts, the Appellate Court concluded that the statutory text in question does not address clearly whether a juvenile court may place a child out-of-home for a subsequent non technical violation of probation, where it could not have done so for the original delinquent act. Thus, the text is ambiguous. The linchpin of the resolution of this case became, therefore, the legislative history of the JJRA, which revealed that the General Assembly did not intend for the prohibition on out of-home placement to evaporate once the initial disposition was made.

In 2022, the General Assembly enacted the JJRA with the aim of overhauling the way Maryland's justice system treats children. Among the myriad reforms embodied in the statute, a child could no longer be committed to the Department for out-of-home placement if he/she commits a misdemeanor (not involving a firearm) or a technical violation of their probation. CJP

§ 3-8A-19(d)(3). If a child commits a non-technical probation violation, a court may restart his/her term of probation. CJP § 3-8A-19.6(f).

The legislative history demonstrated overwhelmingly that the JJRA was intended to reduce the number of children committed to the Department. Nothing in the legislative history suggested that the General Assembly intended the prohibition regarding out-of-home placement to evaporate after disposition of the initial petition is made.

Nor did the history reflect that the General Assembly viewed violations of probation as independent of the original delinquent act. Rather, it reflected that including technical violations in CJP § 3-8A-19(d)(3) was driven by a desire to ensure a child could not be placed out-of-home for one. There was never any discussion, however, about how violation of probation proceedings function in juvenile court. This explains why the General Assembly seemed to treat technical violations as a possible "most serious offense" that causes a court to "mak[e] a disposition on a petition," rather than a finding that triggers the court's discretionary authority to modify an existing disposition.

Allowing a juvenile court to modify a disposition order beyond what it could make originally would subvert the General Assembly's clear intent in passing the JJRA—that is, to shrink the juvenile justice system and reduce out-of-home placements. The General Assembly did not intend for children like K.K., who could not have been placed out of home for their original delinquent act and were found later not involved in other delinquent acts—one for which, even if they were found involved, they still could not have been placed out-of-home—to be committed nevertheless to the Department for violating their probation. The history makes clear that the General Assembly anticipated non compliant juvenile probationers. That was expressly why the bill was amended to allow the juvenile court to restart the child's term of probation upon finding a non-technical violation. Confronted with a child who continues to defy the conditions of his/her misdemeanor probation, or one who continues to commit low-level offenses, the General Assembly's envisioned the solution was to seek out of home placement through alternative avenues, like a CINS ("Child In Need of Supervision") petition filed under CJP § 3-8A-13 and Md. Rule 11-502. The history makes clear, however, that the General Assembly did not intend a child who commits a misdemeanor (not involving a firearm) to be removed from his/her home through the delinquency process, even if he/she violates probation. The intent of the General Assembly, made manifest in the relevant legislative history, is clear and neither illogical nor nonsensical.

Accordingly, the Appellate Court of Maryland reversed, holding that, where out-of-home placement was not an available disposition for the underlying delinquent act, it does not become available after finding that the child committed a non-technical violation of probation.

Return to ToC

Candace McCarthy v. Board of Commissioners for Frederick County, Maryland, No. 1792, September Term 2023, filed June 27, 2025. Opinion by Tang, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1792s23.pdf

MUNICIPAL, COUNTY, AND LOCAL GOVERNMENT – IMMUNITY AND EXCEPTIONS THERETO IN GENERAL – GOVERNMENTAL FUNCTION IMMUNITY – GOVERNMENT BUILDINGS

NUISANCE – PERSONS ENTITLED TO MAINTAIN PROCEEDINGS – PERSONS ENTITLED TO SUE

Facts:

Candace McCarthy, an employee of the Office of the Public Defender (the "OPD"), worked in the OPD's offices in the John Hanson House, a separate building from the courthouse proper that is part of the Frederick County Courthouse Complex. She claimed that she developed an autoimmune disease because of black mold in the building's basement. She sued Frederick County for negligence and private nuisance.

The County moved to dismiss or, in the alternative, for summary judgment, and the circuit court granted summary judgment on both counts.

Held: Affirmed.

A municipal government is immune from suit when it engages in a governmental function, but not when it engages in a proprietary function. The maintenance of a courthouse is a governmental function. The Appellate Court held that there was no dispute of material fact that the County had acquired the John Hanson House and reconstructed it to be incorporated into the Frederick County Courthouse Complex. Because the House was part of a courthouse, the Appellate Court held that the County's maintenance of the House was a governmental function. That the County leased office space in the House to the OPD and received payments to cover the OPD's proportionate share of the costs for the Complex's operation and maintenance did not render the maintenance of the House a proprietary function.

Private nuisance is a nontrespassory invasion of another's interest in the private use and enjoyment of land. A claimant must either have lawful possession of or have a right to occupy the land. The Appellate Court held that an employee's right to be present in the workplace does not confer upon her an interest in the property affected that would entitle her to maintain a private nuisance suit.

Return to ToC

Thomasina Coates v. Charles County Board of Commissioners, et al., No. 1623, September Term 2023, filed June 30, 2025. Opinion by Nazarian, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1623s23.pdf

PERMANENT INJUNCTIONS – COMMON LAW STANDING – ELECTED OFFICIALS

PERMANENT INJUNCTIONS – POLITICAL QUESTION – EXPRESS POWERS ACT

PERMANENT INJUNCTIONS – PROMPT AND REMEDIAL ACTION – LOCAL GOVERNMENT

Facts:

In a closed meeting session, the Board of County Commissioners for Charles County (the "Board") voted to take Prompt and Remedial Action ("PRA") restricting the conduct of Commissioner Thomasina O. Coates based on the findings of an independent investigation into County Administrator Mark Belton's personnel complaint against her. After resuming its meeting in open session, the Board amended its Rules of Procedure (the "Rules") to include a policy statement prohibiting commissioners from engaging in "intimidating and disruptive workplace behaviors" against each other or county employees, including discrimination, harassment, defamation, or bullying. Two-and-a-half years later, Commissioner Coates tried to cast the deciding Board vote to fire Mr. Belton. Commissioners Gilbert O. Bowling, III, and Amanda M. Stewart objected to the validity of any Board action that included her vote. The Board authorized Commissioners Stewart and Bowling (the "Commissioners") to bring a civil action seeking a declaratory judgment on Commissioner Coates's authority to vote on Mr. Belton's employment in light of the PRA. The Commissioners did so, and after nine months of litigation, the Circuit Court for Charles County issued a permanent injunction in their favor. The order prohibited the Board from taking any action to rescind, amend, or modify the PRA or to rescind the amendment to the Rules with a vote that included Commissioner Coates. Commissioner Coates appealed the circuit court's judgment.

Held: Affirmed in part, vacated in part, and remanded for further proceedings.

The Court held that the circuit court permanently enjoined Commissioner Coates appropriately because she did not have the authority to vote on Mr. Belton's employment after the Board adopted the PRA. The Court concluded that the Commissioners had statutory and common law standing based on their direct interests in enforcing the PRA and the Rules and in preserving public confidence in the integrity of their office. Also, it determined that the circuit court's adjudication of Commissioner Coates's authority was not a political question, that the Board had the administrative authority to take prompt remedial action to resolve personnel disputes

involving its county administrator, and that sufficient evidence supported the permanent injunction. Further, the Court held that the circuit court's discovery and evidentiary rulings were not an abuse of discretion because evidence about whether the Board should have adopted the PRA was irrelevant. The Court concluded that the circuit court erred when it dismissed Commissioner Coates's counterclaim for declaratory relief rather than entering a declaratory judgment embodying its conclusion that she was not entitled to relief due to its findings and conclusions on the Commissioners' claims. As a result, the Court vacated the portion of the circuit court's judgment dismissing her counterclaim and remanded the matter for entry of a declaratory judgment consistent with the circuit court's original findings and conclusions.

Return to ToC

ATTORNEY DISCIPLINE

DISBARMENTS/SUSPENSIONS

By an Order of the Supreme Court of Maryland dated June 27, 2025, the following attorney has been disbarred by consent:

SUSAN ENGONWEI TINGWEI

*

Return to ToC

JUDICIAL APPOINTMENTS

*

On June 6, 2025, the Governor announced the elevation of the **Hon. Catherine Chen** to the Circuit Court for Baltimore City. Judge Chen was sworn in on June 25, 2025, and fills the vacancy created by the retirement of the Hon. Videtta A. Brown.

*

On June 6, 2025, the Governor announced the appointment of **Magistrate Kevin R. Hill** to the Circuit Court for St. Mary's County. Judge Hill was sworn in on June 30, 2025, and fills the vacancy created by the passing of the Hon. Michael J. Stamm.

*

Return to ToC

RULES ORDERS

*

A Rules Order pertaining the 224rd Report of the Standing Committee on Rules of Practice and Procedure was filed on June 26, 2025.

http://www.mdcourts.gov/sites/default/files/rules/order/ro224th.pdf

*

A Rules Order Pertaining to Court proposed amendments to Rule 16-701 was filed on June 26, 2025.

http://www.mdcourts.gov/sites/default/files/rules/order/ro16701rule.pdf

*

Return to ToC

UNREPORTED OPINIONS

The full text of Appellate Court unreported opinions can be found online:

https://mdcourts.gov/appellate/unreportedopinions

	Case No.	*Decided*
A		
Abad-Mesina, Mark Kevin v. State	0324	June 2, 2025
Al-Atiyyat, Raed v. State	2378 *	June 18, 2025
Alt, Katherine v. Garces	1739	June 10, 2025
B		
Barnett, Deron v. State	1125 *	June 13, 2025
Bates, Sharon D. v. Leahy	0613	June 13, 2025
Bayly, Georgia Rose v. Rapp	2035	June 25, 2025
Bennett, Jamie M. v. Ashcraft & Gerel	2228 *	June 4, 2025
Brooks, Donwin Rumeal v. State	1689 *	June 18, 2025
Burgess, Elizabeth v. Burgess	1519	June 25, 2025
Burroughs, Brandon Joel v. State	1000	June 11, 2025
C		
Crudup, Sean v. Little	0721	June 2, 2025
Cuffee, Rashawn Tireac v. State	2308 *	June 9, 2025
D		
DePasquale, Jeremy Michael v. Fitzgerald	0024	June 3, 2025
Diggs, William T.A., Jr. v. State	0113 *	June 18, 2025
Dodds, Lynda M. v. Dodds	0579	June 12, 2025
E		
Eaton, Shawna v. Johnson	0711	June 6, 2025
Estate of Jackman, Louise v. Warner	1402 *	June 23, 2025
F		
Fitch, John P. v. Ashcraft & Gerel	0806	June 4, 2025
Frazier, Marvin Jewel-Syncere v. State	1766 *	June 23, 2025

† September Term 2025
September Term 2024
* September Term 2023
** September Term 2022

Return to ToC

G		
Gantt, Joshua Ryan v. State	2109 **	June 4, 2025
Giron, Yazmin M. Guardado v. Rivera	1952	June 10, 2025
H		
Haddix, Alan Richard v. State	0980	June 10, 2025
Haygood, Erica Tucker v. Parrott	2083 *	June 3, 2025
Haywood, Perry, Jr. v. Henry	1327	June 25, 2025
Hipp, Carol v. Mayor & City Cncl. Of Balt.	0595	June 27, 2025
Holder, Justin K. v. Miles and Stockbridge PC	2416 *	June 2, 2025
I		
Ibe, Adanna v. Egeonu	2032	June 27, 2025
In re: A.W. & R.W.	2047	June 30, 2025
In re: Estate of Regan, John	0448	June 13, 2025
In re: J.E.	1518	June 10, 2025
In re: Z.F. & B.F.	1609	June 10, 2025
In the Matter of the Petition of Scott, Tanya	0186	June 3, 2025
In the Matter of Wilson, Najee	0731	June 30, 2025
Ivor, King Sam v. State	2237	June 2, 2025
J		
Jackson, Charles Howard, Jr. v. State	2444 *	June 18, 2025
Johnson, Charles T., II v. Johnson	1262 *	June 13, 2025
Johnson, Kenneth J. v. State	0058	June 20, 2025
Johnson, Kevin Lamont v. Healy-Johnson	0047	June 10, 2025
Joof, Malick v. Joof	1959	June 10, 2025
Joseph, John Kirlan v. Joseph	2247 *	June 25, 2025
K		
King, Kyeem Antonio v. State	1779 **	June 20, 2025
Kopp, Xavier S. v. State	1250 *	June 11, 2025
L		
Lewis, Glen v. State	1789	June 2, 2025
M		
Mata, Jorge v. Kalra	2361 *	June 27, 2025
Metro Investigation & Recover v. Pineda-Lopez	0546	June 2, 2025
Morgen-Westrick, Duncan v. Pub. Sec. Sch. Ath. Ass'n.	0040	June 6, 2025

† September Term 2025
September Term 2024
* September Term 2023
** September Term 2022

† September Term 2025
September Term 2024
* September Term 2023
** September Term 2022

Return to ToC

Z

† September Term 2025
September Term 2024
* September Term 2023
** September Term 2022