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SUPREME COURT OF MARYLAND

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https://mdcourts.gov/data/opinions/coa/2026/16a25.pdf

FOURTH AMENDMENT – TRAFFIC STOP – REASONABLE SUSPICION – TEXTING WHILE DRIVING

Facts:

In the Circuit Court for Washington County, the State, Petitioner, charged Mr. Stone with possession of fentanyl with the intent to distribute and other charges stemming from a stop of his vehicle. Prior to trial, Mr. Stone filed a motion to suppress evidence that was recovered pursuant to the stop. At the suppression hearing, two police officers, who participated in the stop of Mr. Stone's vehicle, gave testimony about their observations. One of the officers testified that, before stopping the vehicle, he observed the driver "manipulat[ing]" a cell phone that was attached to the windshield or the dashboard of the vehicle, and that "it appeared like [the driver] was typing a message or placing a phone call[.]" The prosecutor asked the officer to explain why he thought that and what he actually observed. The officer responded: "I saw him with his right hand manipulate the phone, touching it while he was driving down the roadway." This time, the officer did not mention having opined that the manipulation of the phone appeared like typing a message or placing a phone call and did not claim to have seen the driver doing either. The other officer testified that the driver had "a cellphone that was stuck to the windshield of the vehicle" and that he observed the driver "pressing the screen" of the cell phone.

The circuit court denied the motion to suppress, reasoning that "[s]eeing a person manipulating the phone is enough reasonable articulable suspicion because they, in this day and age they could easily be texting." After a trial by jury, Mr. Stone was convicted and sentenced to imprisonment. The Appellate Court of Maryland reversed the judgment of the circuit court, concluding that the officers had observed innocuous behavior that, without additional observations, was not indicative of criminal activity. *See Stone v. Stat*e, No. 1488, Sep. Term, 2023, 2025 WL 289120, at *1, *9 (Md. App. Ct. Jan. 24, 2025). The State filed a petition for a writ of *certiorari*, which the Supreme Court of Maryland granted. *See State v. Stone*, 490 Md. 432, 336 A.3d 176 (2025).

Held: Affirmed.

The Supreme Court of Maryland held that, where conduct observed by a police officer is consistent with the legal or illegal use of a text messaging device or handheld telephone, to justify a traffic stop, an officer must be able to credibly identify specific facts, not applicable to a substantial portion of the general law-abiding public, "which, taken together with rational inferences from those facts," *Terry v. Ohio*, 392 U.S. 1, 21 (1968), under the totality of circumstances, reasonably establish that a violation of Md. Code Ann., Transp. (1977, 2020 Repl. Vol.) ("TR") §§ 21-1124 through 21-1124.2 has occurred or may be occurring. The Supreme Court concluded that a police officer's observation of a driver "manipulating," "touching," or "pressing" the screen of a mobile phone does not, alone, provide reasonable suspicion of a violation of TR §§ 21-1124 through 21-1124.2. An investigatory stop, even a brief one, is a seizure; and, a person, including the driver of a motor vehicle seen touching or manipulating the screen of a mobile phone, is entitled to the full protection of the Fourth Amendment reasonable suspicion standard with respect to investigatory stops initiated by police officers.

The Supreme Court of Maryland stated that its holding stemmed directly from the holding of the Supreme Court of the United States in *Terry*, 392 U.S. at 21—that to justify a particular intrusion, a police officer must be able to identify "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion"—and its own myriad of case law holding that "the reasonable suspicion standard requires the police to possess a particularized and objective basis for suspecting legal wrongdoing[,]" *Lewis v. State*, 398 Md. 349, 362, 920 A.2d 1080, 1087 (2007) (citation modified). The Supreme Court stated that it is well settled that a police officer's observation of innocent conduct that may or may not be indicative of illegal activity cannot constitute reasonable suspicion for an investigatory stop unless the officer can credibly identify specific facts that gave rise to suspicion of illegal activity based on the circumstances known to the officer at the time of observation, and those facts and any rational inferences that may be drawn from them would cause a reasonable police officer to believe that criminal activity was or may be occurring. *See Terry*, 392 U.S. at 30.

The Supreme Court of Maryland reaffirmed its holdings in *Ferris*, 355 Md. at 386-87, 735 A.2d at 507, and *Cartnail v. State*, 359 Md. 272, 291, 753 A.2d 519, 529-30 (2000), that it is not sufficient that law enforcement officials can state reasons why they stopped a driver; in addition, the facts taken together must be "out of the ordinary" and rule out "a substantial portion of innocent travelers before the requirement of reasonable suspicion will be satisfied." (Citation modified). Based on these principles, the Supreme Court concluded that where a police officer observes a driver manipulating, touching, or pressing the screen of a phone, without additional information, a reasonable and prudent officer would not be justified in conducting a stop to investigate a violation of the traffic laws governing use of a mobile phone while driving. Such limited observations are not "out of the ordinary" and do not rule out "a substantial portion of innocent" drivers, *Cartnail*, 359 Md. at 291, 753 A.2d at 530 (citation modified), and do not constitute facts from which, together with the rational inferences that may be drawn from them,

are sufficient to satisfy the requirement for reasonable suspicion of a violation of TR §§ 21-1124, 21-1124.1, or 21-1124.2. For these reasons, the Supreme Court held that the officers' stop of Mr. Stone's vehicle was unreasonable and violated the Fourth Amendment.

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Anthony Maurice Tarpley v. State of Maryland, No. 13, September Term 2025, filed January 26, 2026. Opinion by Eaves, J.

https://www.mdcourts.gov/data/opinions/coa/2026/13a25.pdf

MD. CODE ANN., CRIMINAL PROCEDURE ARTICLE § 8-201 – POST-CONVICTION DNA TESTING – NON-COGNIZABLE CLAIM

Facts:

In May 2022, the State charged Anthony Tarpley in the Circuit Court for Howard County with second-degree rape and related sexual offenses arising from allegations that he performed sexual acts on an eight-year-old. The State introduced DNA evidence derived from a sexual assault forensic exam ("SAFE"). Although the collecting nurse testified that she did not recall collecting a perianal swab and her notes reflected no such collection, the SAFE kit received by the forensic laboratory contained a swab labeled "perianal swab." The outer envelope containing the kit also had a small tear. Mr. Tarpley moved to exclude the entire laboratory report based on alleged chain of custody defects. In the alternative, Mr. Tarpley asked that the laboratory report be redacted to exclude any reference to the perianal swab. The circuit court denied Mr. Tarpley's primary request but granted his alternative request, admitting—without objection—a redacted laboratory report that excluded references to the perianal swab. A jury convicted Mr. Tarpley of second-degree rape and other related offenses.

On direct appeal, Mr. Tarpley argued that the circuit court erred in admitting the redacted laboratory results because of the same alleged chain of custody issues he noted in the circuit court. The Appellate Court affirmed Mr. Tarpley's convictions, holding, in pertinent part, that Mr. Tarpley failed to preserve for appellate review a chain-of-custody objection to the admission of the redacted report.

In November 2024, Mr. Tarpley moved for a new trial under § 8-201(c) of the Criminal Procedure Article ("CP") of the Maryland Annotated Code (2018 Repl. Vol.), contending that the laboratory report was not properly authenticated due to chain of custody defects. The circuit court denied the motion without a hearing. Mr. Tarpley appealed, and the Appellate Court transferred the appeal to the Supreme Court of Maryland.

Held: Affirmed.

The Supreme Court of Maryland held that Mr. Tarpley did not present a cognizable claim under CP § 8-201(c). CP § 8-201(c) authorizes a petitioner to move for a new trial "on the grounds that the conviction was based on unreliable scientific identification evidence and a substantial possibility exists that the petitioner would not have been convicted without the evidence." The

Court explained that the statute targets flaws in the scientific testing process itself, not evidentiary issues concerning how evidence is preserved or handled. Mr. Tarpley did not assert that his conviction was based on unreliable scientific evidence. Rather, he challenged the authenticity of the DNA evidence based on alleged defects in the chain of custody. Because the motion challenged the evidentiary integrity of the SAFE kit itself and not the scientific reliability of the testing used on the SAFE kit, the Supreme Court held that the issue was not preserved for appellate review and was not cognizable under CP § 8-201.

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Philip Clarke v. Chinyere Gibson, No. 1, September Term 2025, filed November 24, 2025. Opinion by Eaves, J.

https://www.mdcourts.gov/data/opinions/coa/2025/1a25.pdf

APPELLATE PROCEDURE – FAILURE TO PRESERVE ISSUE FOR APPEAL

PROCEDURAL DUE PROCESS – PROCESS UNDER MD. CODE ANN., FAMILY LAW §§ 4-504–4-506

MD. CODE ANN., FAMILY LAW § 4-506(c)(1)(ii) – SUFFICIENCY OF THE EVIDENCE – CREDIBILITY DETERMINATIONS – EFFECT ON BURDEN OF PROOF

Facts:

Chinyere Gibson and Philip Clarke were married but divorced in 2017 and have two minor children together: A.C. and O.C. Since October 2022, and before the initiation of the proceedings given rise to this appeal, Mr. Clarke had primary custody of the minor children, and Ms. Gibson had visitation every other weekend from Friday 6:00 p.m. until Sunday at 6:00 p.m.

On February 7, 2024, Ms. Gibson filed a petition for protection for the minor children, alleging that Mr. Clarke had made threats of violence against the children and that he committed "mental injury of a child." Ms. Gibson's petition did not provide any factual details for these assertions. That same day, the Circuit Court for Anne Arundel County held an ex parte hearing on Ms. Gibson's petition. At that hearing, Ms. Gibson testified that the children relayed to her that Mr. Clarke (1) on February 1, 2024, threatened to throw O.C. through a wall and physically punched her and (2) on January 31, 2024, threatened to punch A.C. but instead punched A.C.'s headboard. Based on that testimony, the circuit court found that there were reasonable grounds to believe that Mr. Clarke committed statutory abuse of a child and awarded Ms. Gibson a protective order on the children's behalf. Because the matter involved potential abuse of a child, the court was required to forward the matter to the Department of Social Services for an investigation and report. So that the court could have that report in time for the final protective order hearing, the court scheduled the final hearing, beyond the typical seven-day limit, for February 23.

The parties appeared for the final protective order hearing as scheduled. Ms. Gibson represented herself, and Mr. Clarke appeared represented by counsel. Before the hearing commenced, the court afforded the parties an opportunity to review DSS' report, which included statements from interviews with A.C. and O.C., who alleged that Mr. Clarke committed physical acts of violence and threats of violence. Neither party asked for a continuance based on the contents of the report. During her case, Ms. Gibson called as witnesses, the DSS employee who authored the report, Ms. Gibson's sister, and herself. The DSS report itself was not introduced into evidence. During his case, Mr. Clarke called as witnesses himself and his then-fiancée.

The circuit ruled that there was a preponderance of the evidence to find that Mr. Clarke abused O.C. by punching her in the chest; the court's oral ruling made no mention of A.C. Critical to the circuit court's analysis was its assessment of the credibility of witnesses and the fact that the court did not find credible Mr. Clarke or his fiancée. At the end of the hearing, Mr. Clarke's counsel raised an issue of procedural due process, arguing that Ms. Gibson's petition did not assert any acts of physical violence; rather, it alleged only threats of violence and mental injury. The circuit court noted that Mr. Clarke adequately was notified of that allegation via service of the temporary protective order, which indicated the circuit court's finding that there were reasonable grounds to believe that Mr. Clarke, among other things, physically abused O.C.

On appeal, the Appellate Court of Maryland affirmed. *Clarke v. Gibson*, No. 143, 2024 WL 4490368, at *1 (Md. App. Ct. Oct. 15, 2024). As relevant to the issues before this Court, Mr. Clarke argued that the circuit court (1) erred by scheduling the final protective order hearing beyond seven days from the date on which Mr. Clarke was served with the temporary protective order without making a finding of good cause to do so, (2) violated his right to procedural due process when it considered allegations of physical child abuse despite the lack of such allegation on Ms. Gibson's petition, and (3) erred in concluding that there was sufficient evidence to award Ms. Gibson a final protective order on the children's behalf. The Appellate Court held that the law does not require a circuit court to specify its reasoning for extending a protective order beyond the typical seven-limit and that, even if it did, doing so for the purpose of providing DSS adequate time to complete its statutorily mandated report would qualify as good cause. *Id*. at *5. As to the second issue, the Appellate Court held that the purpose of the ex parte hearing is for a petitioner to expound upon the allegations contained in the petition and that to credit Mr. Clarke's argument would render those hearings meaningless. *Id*. at *6. The court went on to note that Mr. Clarke received a copy of the temporary protective order and was provided with notice of the allegations against him, so no due process violation occurred. *Id*. Finally, the court noted that the circuit court did not err in granting Ms. Gibson a final protective order. *Id*. at *8. The Appellate Court noted that the circuit rejected the testimony from Mr. Clarke and his fiancée; therefore, there was sufficient evidence to justify the award of the final protective order. *Id*.

Mr. Clarke filed a petition for a writ of certiorari, which the Supreme Court of Maryland granted on February 21, 2025. *Clarke v. Gibson*, 490 Md. 81 (2025).

Held: Affirmed in part and vacated in part.

The Supreme Court of Maryland first held that Mr. Clarke did not preserve for appellate review the issue of whether the circuit court erred in scheduling the final protective order hearing. Section 4-505(c)(1) of the Family Law Article ("FL") of the Maryland Annotated Code (2019 Repl. Vol.) states that, "[e]xcept as otherwise provided in this subsection, the temporary protective order shall be effective for not more than 7 days after service of the order." However, a court can extend a temporary protective order for good cause. *Id*. § 4-505(c)(2). Although the

circuit court did not explicitly state that the requirement that DSS prepare a report for the court in advance of the February 23 final protective order hearing, Mr. Clarke failed to preserve this issue for appellate review. To the extent time permitted, Mr. Clarke could have filed a motion to dismiss the petition prior to final protective order hearing. At the very least, he could have objected to the proceedings on the day of the final protective order hearing. Mr. Clarke did not take either course of action. Nor did Mr. Clarke argue any reason why this Court should exercise its discretion to decide that unpreserved issue. Because the issue easily could have been preserved, and because Mr. Clarke advanced no argument as to why the Court should deviate from traditional appellate practice, the Supreme Court held that the issue plainly was not preserved for appellate review and did not merit the Court's discretionary review. *See* Md. R. 8-131(a).

As to the issue of procedural due process, the Supreme Court held that Mr. Clarke's rights were not violated. In assessing whether certain procedures respect an individual's right to procedural due process, Maryland courts historically have used a three-part test, balancing (1) the private interests affected; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional or different procedural safeguards; and (3) the State's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement(s) would entail. *Johnson v. Md. Dep't of Health v. Johnson*, 470 Md. 648, 686 (2020). As to the first factor, the Court recognized that the temporary protective order here implicated fundamental liberty interests: Mr. Clarke's right to bear arms and direct the upbringing of his children. As to factor two, the Court noted that the current procedures used to notify a respondent in a protective order case were adequate. The law requires that a respondent be notified via service of the temporary protective order, not the underlying petition, and that the temporary protective order includes all pertinent information that a respondent needs to know: the allegations against them, the date and time of the final hearing, and the possible relief that could be awarded against them, and that a respondent has a right to be heard at the final protective order hearing. The only additional safeguard proposed by Mr. Clarke was that he be served with Ms. Gibson's underlying petition. Regarding factor three, the Court recognized that the State has an interest in protecting victims of domestic violence. Balancing all those factors, the Court held that Mr. Clarke did not suffer a violation of his right to procedural due process because the current scheme adequately apprises a respondent of all pertinent information and serving a respondent with the underlying petition does not provide them with anything relevant that the temporary protective order does not. Mr. Clarke did not otherwise allege that any aspect of the temporary protective order did not provide him with procedural due process.

Regarding the sufficiency of the evidence, the Supreme Court vacated that portion of the Appellate Court's opinion with instructions that it reconsider that issue. While noting that appellate courts typically defer to a trial court's credibility determinations, the Court nevertheless noted that a factfinder's "prerogative not to believe certain testimony, however, does not constitute affirmative evidence of the contrary." *VF Corp. v. Wrexham Aviation Corp*., 350 Md. 693, 711 (1998). By affirming the circuit court's determination that there was a preponderance of the evidence to find that Mr. Clarke abused A.C. and O.C., the Appellate Court elevated negative credibility determinations to affirmative evidence to satisfy a party's burden of proof. Because

the Appellate court so erred in its review of the circuit court's determination, the Supreme Court vacated that portion of the Appellate Court's opinion with instructions that it evaluate the entire record before the circuit court to determine whether the circuit court was correct to award Ms. Gibson a final protective order.

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APPELLATE COURT OF MARYLAND

OHI Asset HUD Delta, LLC v. REIT Solutions II, LLC, et al., No. 1720, September Term 2022, filed January 28, 2026. Opinion by Tang, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1720s22.pdf

COURTS – ACTIONS BY OR AGAINST NON-RESIDENTS – PERSONAL JURISDICTION IN – "LONG-ARM" JURISDICTION – BUSINESS CONTACTS AND ACTIVITIES – TRANSACTING OR DOING BUSINESS

CONTRACTS – CONSTRUCTION AND OPERATION – SUBJECT MATTER – LEGAL REMEDIES AND PROCEEDINGS

Facts:

The appellant, a foreign limited liability company with its principal place of business in Maryland, filed a single-count complaint for declaratory relief in the Circuit Court for Baltimore County against five foreign entities, the appellees. The dispute arose regarding the appellant's obligations under various notes in favor of the appellees. The appellees moved to dismiss, arguing that their contacts with Maryland were insufficient to establish personal jurisdiction. After a hearing, the court granted the motion and dismissed the complaint.

Held: Affirmed.

The Appellate Court held that the circuit court did not err in granting the appellees' motion to dismiss for lack of personal jurisdiction because the appellees' contacts with Maryland did not amount to "[t]ransact[ing] any business" in this State under Maryland's long-arm statute. Md. Code Ann., Courts & Judicial Proceedings § 6-103(b)(1).

In addition, the Appellate Court rejected the appellant's alternative argument that the Maryland forum selection clause in separate agreement conferred jurisdiction over the appellees in Maryland under the "closely related" doctrine.

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Malik Dujuan Jefferson v. State of Maryland, No. 509, September Term 2024, filed January 29, 2026. Opinion by Berger, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0509s24.pdf

CRIMINAL LAW – DEFENSE OF OTHERS – AGGRESSION OR PROVOCATION BY PERSON CLAIMING DEFENSE – CRIMINAL LAW – STATEMENTS, CONFESSIONS, AND ADMISSIONS BY ACCUSED – WAIVER OF RIGHTS

Facts:

The State of Maryland charged Malik Dujuan Jefferson ("Jefferson") with first-degree murder, use of a firearm in the commission of a crime of violence, armed robbery, and conspiracy to commit armed robbery. The charges arose in connection with an altercation between Jefferson, Jackson Alexander Garcia ("Garcia"), and Osvaldo Genao Romero ("Genao") that resulted in the death of Genao.

Prior to trial, Jefferson moved to suppress statements he made during a custodial interrogation, arguing that his Miranda waiver was not voluntary and knowing because he was not informed that he had been charged with first-degree murder until after he confessed to shooting Genao. The trial court denied Jefferson's motion, finding that the mere fact that law enforcement officers had not informed him of the serious charge lodged against him prior to obtaining his waiver did not render said waiver or Jefferson's subsequent statements involuntary.

At trial, the State's narrative was that Jefferson and Garcia acted on a plan to rob Genao during a drug deal. The State's case relied heavily on statements that Jefferson made during his custodial interview and footage obtained from a "Ring" doorbell camera that captured most of the altercation. According to the State, Jefferson accompanied Garcia to Genao's residence where Genao got into the car with the two other men. Garcia then drove the three men to a nearby neighborhood where he made a sharp U-turn and then stopped the vehicle. Garcia and Jefferson exited the vehicle and began attacking Genao through the back door of the vehicle. During the tussle, either Garcia or Jefferson grabbed something from Genao and tossed it onto the front seat. The altercation spilled onto the street and as Garcia and Genao were fighting, Jefferson shot Garcia. Jefferson and Garcia fled the scene. Additionally, the State proffered evidence linking the firearm recovered on Garcia upon his arrest with the cartridge case and bullet found at the crime scene through the testimony of a firearm examiner.

Jefferson maintained that he shot Genao to defend Garcia as the fight between Garcia and Genao became "tragic" with Genao grabbing for a large knife and trying to slam Garcia's head on the pavement. Additionally, Jefferson argued that any robbery occurred after Genao was shot when Genao's Louis Vuitton crossbody bag was taken from his person.

At the close of evidence, Jefferson requested both a perfect and imperfect defense of others instruction (collectively, "defense of others instruction"). Jefferson argued that, even if the State was correct that Garcia was the initial aggressor, there was sufficient evidence from which the jury could conclude that Genao escalated the altercation to the deadly level. The trial court agreed with the State and refused to give the defense of others instruction reasoning that, because Garcia and Genao were engaged in mutual combat, which Garcia had initiated, neither defense of others instruction was applicable to Jefferson.

The jury returned a verdict convicting Jefferson of second-degree murder, use of a firearm in the commission of a crime of violence, and robbery. Jefferson timely appealed.

Held: Vacated and remanded for a new trial.

The Appellate Court of Maryland considered three primary issues on appeal. First, the Court analyzed whether the trial court erred by refusing to instruct the jury on perfect and imperfect defense of others (collectively, "defense of others"). The Court addressed the distinction between perfect and imperfect defense of others and the elements of each. The Court noted that, although the party on whose behalf a criminal defendant intervenes must not be the initial aggressor, defense of others is available to a defendant when the person defended is a non-deadly initial aggressor who is faced with deadly force in return. The Court then concluded that there was some evidence that (1) Garcia was a non-deadly initial aggressor and Genao escalated the altercation to the level of deadly force and (2) the initial aggressor was Genao. The Court, therefore, held that the trial court erred by refusing to instruct the jury on defense of others.

The Court then considered the State's argument that any error in not instructing the jury on defense of others was harmless beyond a reasonable doubt. The Court explained the State's argument that, because the only way to reconcile the evidence with the jury's verdict is to conclude that the jury must have concluded the robbery occurred in the backseat of the car before Genao was shot, the jury must have concluded Garcia and Jefferson were the initial aggressors, therefore defense of others was not available to Jefferson. The Court rejected the State's invitation to speculate as to which factual conclusions the jury accepted. Instead, the Court held that the error was not harmless beyond a reasonable doubt because the jury could have concluded that the robbery took place after the shooting when Genao's Louis Vuitton bag was taken. Because of this conclusion, the Court declined to address the State's suggested per se rule that defense of others is unavailable to the instigator of a felony. The Court did, however, note that the cases upon which the State relied are distinguishable from Jefferson's case.

The Court next addressed whether law enforcement's failure to inform Jefferson that he had been charged with first-degree murder rendered his waiver of rights under *Miranda* invalid. The Court discussed the requirement that a *Miranda* waiver be made knowingly, intelligently, and voluntarily. The Court went on to explain, however, that a defendant need not be informed of all information that may affect their decision to waive their *Miranda* rights. Rather, the Court explained a defendant need only have knowledge of the consequences that flow from waiving

their *Miranda* rights. The Court concluded that there was evidence that Jefferson was aware of the nature of his *Miranda* rights and that he understood the consequences of waiving those rights, namely that his incriminating statements could be used against him. As such, the Court concluded that the trial court's conclusion that Jefferson's *Miranda* waiver was valid was not clearly erroneous.

Finally, the Court considered whether the testimony of the State's firearm examiner concerning the consistency between the unique and individual characteristics of test fired cartridge cases and bullets and the evidence cartridge case and bullet recovered from the crime scene was the functional equivalent of "unqualified testimony of a match between a particular firearm and a particular crime scene bullet," which the Supreme Court of Maryland disavowed in *Abruquah v. State*, 483 Md. 637, 695 (2023). The Court held that, because the jury was presented with Jefferson's admission that he shot Genao and subsequently gave the gun to Garcia, any error in not limiting the firearm examiner's testimony was harmless beyond a reasonable doubt.

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Teshan Dion Jordan v. State of Maryland, No. 2437, September Term 2023, filed January 30, 2026. Opinion by Harrell, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/2437s23.pdf

CRIMINAL LAW – "OTHER CRIMES" EVIDENCE – MD. RULE 5-404(b) – SPECIAL RELEVANCE – IDENTITY – MOTIVE -- MODUS OPERANDI – USPS "ARROW KEYS"

Facts:

A jury in the Circuit Court for Howard County convicted Teshan Dion Jordan, appellant, of robbery with a dangerous weapon, use of a firearm in a crime of violence, theft, and related crimes committed during the robbery of a United States Postal Service ("USPS") motor carrier and a mailbox theft scheme conducted with the unique "arrow key" stolen from that carrier. An arrow key is used to lock and unlock mailboxes on the carrier's collection route.

At trial, the State's theory was that on 21 June 2022, appellant drove his armed accomplice, to the site of the robbery, waited nearby, and then drove the getaway car. Appellant's motive for robbing the USPS carrier was to obtain the arrow key for her route, which he used later, with another accomplice, to steal checks from USPS mailboxes, to be sold on Telegram.

Although appellant's accomplice in the robbery pleaded guilty, he did not implicate appellant. Appellant's accomplice in the theft scheme, one Mattocks, pleaded guilty to that offense and to armed robbery of a mail carrier in Baltimore County. Testifying against appellant pursuant to a plea agreement, Mattocks recounted that when they met in July 2022, appellant possessed already the arrow key stolen from the USPS carrier. They continued their mail theft scheme until 31 August 2022, when they fled from police, abandoning their vehicles.

In a jury trial on multiple charges arising from the robbery of the USPS carrier at gunpoint, and a single theft scheme charge, the identity of the driver in the robbery was the primary contested issue. The State presented evidence that police recovered the arrow key stolen in the mail carrier robbery from a vehicle abandoned by appellant and Mattocks. Over appellant's objection, the trial court also admitted limited evidence that police recovered two different stolen USPS arrow keys (the "Other Keys") in a different vehicle abandoned also by appellant. Appellant was convicted on the charges leveled against him.

On appeal, appellant argued that the trial court erred in admitting "other crimes" evidence of the Other Keys, in violation of Md. Rule 5-404(b).

Held: Affirmed.

Appellant preserved his Rule 5-404(b) objection to the Other Keys evidence, by consistently objecting that jurors might infer that he committed other crimes or bad acts to acquire the Other Keys.

Evidence that appellant had two other stolen arrow keys in his car was not "so connected or blended *in point of time*" to the robbery and mailbox thefts that those crimes "form a single transaction, and . . . cannot be fully shown or explained without evidence of" the Other Keys. *See Odum v. State*, 412 Md. 593, 611 (2010) (emphasis added). Instead, the State's theory was that the Other Keys evidence was "so connected or blended *in point of . . . circumstances* with the" robbery and mailbox thefts, that those charged crimes "cannot be fully shown or explained without evidence of" the Other Keys. *See id.* (emphasis added). In this context, the focus of the arguments for and against admitting the Other Keys evidence under Rule 5-404(b) was properly on whether such evidence was specially relevant to the identity issue at the heart of this case: did Jordan participate in both the robbery and the theft scheme?

The trial court did not err in admitting the Other Keys evidence over appellant's Rule 5-404(b) objection because it was specially relevant to prove appellant's financial motive for the robbery and his distinctive use of arrow keys as the modus operandi for the thefts. The presence of the Other Keys in the vehicle abandoned by appellant made it more likely that appellant, not Mattocks, was the common denominator between the robbery and the theft scheme, with a financial motive to steal the arrow key from the mail carrier for use in the mailbox theft scheme. Such evidence was specially relevant to prove that appellant drove the getaway car in the mail carrier robbery, in order to obtain the distinctive arrow key that he then used to conduct the mailbox theft scheme.

Using an arrow key stolen from a USPS mail carrier to steal repeatedly from mailboxes along the postal route linked to that key constitutes a sufficiently distinctive modus operandi to constitute earmarked or signature crimes. Despite the lack of any Maryland case law mentioning arrow keys, and the lack of extra-jurisdictional case law addressing admission of arrow keys under identity, motive, modus operandi, or other special relevance exceptions governing "other crimes" evidence, discovery of the Other Keys in vehicles linked to appellant was specially relevant to identify him as a participant in both the charged robbery and the charged thefts.

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Andre Jerome Hammond v. State of Maryland, No. 615, September Term 2024, filed January 30, 2026. Opinion by Kehoe, S., J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0615s24.pdf

CRIMINAL LAW – JURISDICTION AND PROCEEDINGS FOR REVIEW – PRESERVATION OF ERROR

MENTAL HEALTH – DISABILITIES AND PRIVILEGES OF MENTALLY DISORDERED PERSONS – CRIMES – REGISTRATION AND COMMUNITY NOTIFICATION – DEFINITIONS – "KNOWINGLY"

Facts:

This appeal concerns the definition of the word "knowingly" as used in Section 11-721 of the Criminal Procedure Article, which requires convicted sex offenders to register with local authorities by dates certain. Md. Code Ann., Crim. Proc. Art § 11-721 states that a registrant may not "knowingly" fail to register as required by the statute. CP § 11-721(a).

The defendant did not timely register but claimed that he could not be convicted for knowingly failing to register because he "forgot," which he argued negated his mental state of "knowingly." The trial court rejected the defendant's argument and instead found that the defendant had prior notice of his duty to register, as evidenced by his history of timely registering and prior conviction for failing to register. In rendering the judgment, the trial court acknowledged the extenuating circumstances that inhibited the defendant from remembering his duty to register, including defendant's struggles with his mental health, though the trial court did not feel that those facts necessarily precluded a conviction. The defendant was convicted and sentenced to five years unsupervised probation, with the recommendation that he continue to seek mental health treatment.

This opinion reviews the definition of "knowingly" in the Criminal Law Article, the overall purpose of sex offender registration acts, and other jurisdictions' treatment of the word "knowingly," and concludes that the trial court did not err.

Held:

The trial court did not err in concluding that defendant's claim that his depression made him forget to remember to register as a sex offender did not negate the "knowingly" element of the offense and was not a defense to the charge of failure to register as a sex offender under CP § 11-721.

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This opinion holds that (1) prior notice is sufficient to establish knowledge, (2) the mens rea is not negated by forgetting, and (3) mitigation at sentencing is proper relief where extenuating circumstances prevent one from fulfilling their obligation under Md. Code Ann., Crim. Proc. § 11-721.

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Joseph Michael Carini v. State of Maryland, No. 543, September Term 2024, filed January 29, 2026. Opinion by Berger, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0543s24.pdf

CRIMINAL PROCEDURE ARTICLE § 4-202 – JUVENILE TRANSFER MOTION – TRANSFER FROM ADULT COURT – AMENABILITY TO TREATMENT

Facts:

Joseph Michael Carini was approximately 16 and a half years old on February 24, 2021, when he shot an individual multiple times at close range. Carini was charged as an adult with attempted first-degree murder, first-degree assault, and various firearms offenses in the Circuit Court for Baltimore County.

On March 17, 2021, Carini filed a "reverse waiver" motion pursuant to Md. Code (2001, 2018 Repl. Vol., 2024 Supp.) § 4-202 of the Criminal Procedure Article ("CP") to transfer his case from adult court, which had original jurisdiction due to Carini's age and the nature of the crimes charged, to the juvenile court. The court held a two-day hearing on the motion to transfer. The court heard testimony from multiple witnesses and received reports from two psychologists that had interviewed Carini. The court received significant evidence regarding Carini's childhood and home life and his mental health needs. Although Carini was currently at a juvenile facility and was making progress, he had been involved in four altercations in which he was the aggressor. Notably, one psychologist diagnosed Carini with PTSD and recommended that he receive therapy to treat his PTSD at a juvenile facility. The court also received evidence regarding Carini's prior interactions with the juvenile justice system, as well as the services he was provided with and his failure to fully utilize those services in the past.

The court delivered its oral ruling noting that it was required to follow the "transfer criteria" of CP § 4-202(d), which included "[t]he age of the child, the . . . mental and physical condition of a child, amenability of a child[to] treatment in an institution facility or program available to delinquent children, nature of the alleged crime and . . . the public safety. The court indicated that it was "also guided by the [Supreme Court of Maryland] decision in *Davis v. State*, 474 Md. 439 [(2021)]." The court specifically noted that it "cannot consider each of the five factors under the statute in isolation. They have to be considered in the context of amenability and based on what the [Supreme Court of Maryland] has said in *Davis*, about what the Court needs to determine." The court engaged in a lengthy analysis of each of the factors, particularly focusing on Carini's behavior while in the juvenile facility and how that colored its analysis of the amenability to treatment factor.

The court further noted that "the question is under *Davis,* would the Defendant benefit from available DJS programs better than anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make that child a more productive

law-abiding person." The court found that the juvenile facilities and programs recommended were not better equipped to treat Carini than anything available in the adult system.

Carini entered a conditional plea whereby he pled guilty to attempted first-degree murder and was sentenced to life imprisonment, all but 20 years suspended, to be followed by five years of supervised probation. The conditional plea preserved his right to appeal the denial of the motion to transfer. Carini timely appealed.

Held: Affirmed.

On appeal, the Appellate Court of Maryland considered whether the circuit court erred in denying Carini's reverse transfer motion to transfer his case to juvenile court. The court addressed CP § 4-202(d) which provides five factors that the court must consider when considering whether to grant a transfer to juvenile court: (1) the age of the child; (2) the mental and physical condition of the child; (3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children; (4) the nature of the alleged crime; and (5) the public safety.

The Court specifically noted that, pursuant to *Davis v. State*, 474 Md. 439 (2021), "[t]he five considerations are not in competition with one another. They all must be considered but they are necessarily interrelated and, analytically, they all converge on amenability to treatment." The Court further noted that if DJS lacks a program "that will produce better results than anything in the adult system and significantly lessen his danger to the public, a reverse waiver request should be denied[.]" *Davis*, 474 Md. at 464. Thus, to affirm, the circuit court must have thoroughly analyzed the CP § 4-202(d) factors with a focus on amenability to treatment and found that the juvenile system was not particularly situated to produce better results than an adult facility.

The Appellate Court held that this is precisely what the circuit court did in this case. The Court found that Carini's case was similar to *Rohrbaugh v. State*, 257 Md. App. 638 (2023), in which the appellant had committed his most recent crimes while receiving services from DJS, had questionable amenability to treatment, and would only receive services for a short time. The Court was particularly persuaded by Carini's previous DJS involvement, failure to take advantage of therapy made available to him, continued violent behavior, and the inability of a juvenile facility to adequately address Carini's PTSD in 3.25 months, the "average stay at a juvenile facility." The Court held that the circuit court's discussion of each of the factors, and specifically Carini's amenability to treatment, was exceptionally thorough. As such, the Court determined that the circuit court did not abuse its discretion in denying Carini's motion to transfer to juvenile court.

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Elvis Okafor v. Rosemary Ojih, No. 1131, September Term 2025, filed January 30, 2026. Opinion by Wells, C.J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1131s25.pdf

FAMILY LAW – MAGISTRATE'S FINDINGS – EXCEPTIONS

FAMILY LAW – EXCEPTIONS – INDIGENCY

Facts:

Father appealed from the Circuit Court for Baltimore County's order overruling his exceptions to a magistrate's recommendations awarding Mother sole legal and primary physical custody of the parties' minor child and ordering Father to pay child support.

The parties, who never married, had one daughter together. When Mother filed her complaint for custody, the child was nearly eleven years old. Mother requested sole legal and physical custody and child support. After Father was served and answered, the parties reached a temporary agreement granting Mother sole physical custody with Father having visitation on alternating Sundays.

Father, proceeding self-represented, subsequently filed his own custody complaint alleging that co-parenting was not in the child's best interest due to Mother's "irrational and unpredictable behavior." He requested sole legal and physical custody. Both complaints were set for hearing before a family law magistrate.

The magistrate's twelve-page report details the testimony of both parties and analyzes the best-interest factors under *Taylor v. Taylor*, 306 Md. 290 (1986), and *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977). The evidence showed that Father went to Nigeria shortly after the child's birth while Mother remained in the United States with the child. The parties had sporadic contact and lived together for six years until Mother moved out. The parents offered conflicting testimony regarding Father's involvement in the child's upbringing. Father acknowledged that Mother was "a good woman" and "a good mother" but maintained the child should live with him.

The magistrate recommended Mother receive sole legal and physical custody, with Father to have phased-in visitation contingent on meeting specified milestones. Father was ordered to pay child support consistent with the guidelines.

Father filed exceptions. At the exceptions hearing, there was not an electronic copy of the magistrate's hearing. The circuit court noted Father had not fully complied with Rule 9-208(g) regarding use of the electronic recording. Nonetheless, Father testified that the basis of his exceptions was that Mother had made unwise decisions but also admitted this issue was addressed before the magistrate. He also admitted he had not filed a financial statement. The

court overruled the exceptions and ratified the magistrate's recommendations. Father's motion for reconsideration was denied, and this appeal followed.

Held: Affirmed.

The Appellate Court of Maryland held the circuit court did not abuse its discretion in overruling Father's exceptions and ratifying the magistrate's recommendations awarding Mother sole legal and primary physical custody.

As a threshold matter, the Court addressed Father's compliance with Rule 9-208(g), which governs requests to use an electronic recording of a magistrate's hearing in lieu of a transcript. The circuit court stated Father failed to include "a completed transcript order form as required by Maryland Rules." However, under Rule 9-208(g)(4), a party claiming indigency need only file an affidavit of indigency and a motion requesting the court accept an electronic recording as the transcript. Based on the docket entries, Father appears to have complied with these requirements. The Court found no rule requiring a separate "transcript order form" when a party asserts inability to pay for a transcript.

Notwithstanding this procedural issue, the circuit court permitted Father to state the basis of his exceptions rather than dismissing them. Father challenged the magistrate's factual findings and credibility assessments. The circuit court made an independent assessment of the evidence and submitted its own findings. Finding no clear error in the magistrate's findings and no abuse of discretion, the Court affirmed.

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Carmelo Reyes Morales, et al. v. Bryant Concrete Construction, Inc., et al., No. 488, September Term 2023, and No. 549, September Term 2024, filed January 28, 2026. Opinion by Tang, J.

https://www.courts.state.md.us/data/opinions/cosa/2026/0488s23.pdf

LABOR AND EMPLOYMENT – WAGES AND HOURS – MINIMUM WAGES AND OVERTIME PAY – ACTIONS – TRIAL - QUESTIONS OF LAW OR FACT – IN GENERAL

LABOR AND EMPLOYMENT – WAGES AND HOURS – MINIMUM WAGES AND OVERTIME PAY – ACTIONS – DAMAGES AND AMOUNT OF RECOVERY - LIQUIDATED DAMAGES – GOOD FAITH; REASONABLE GROUNDS

LABOR AND EMPLOYMENT – WAGES AND HOURS – MINIMUM WAGES AND OVERTIME PAY – ACTIONS

Facts:

Former employees of a concrete construction company filed a complaint in the Circuit Court for Baltimore County against the company and its owners. The employees asserted claims for unpaid overtime wages under the Fair Labor Standards Act ("FLSA"), Maryland Wage and Hour Law ("MWHL"), and the Maryland Wage Payment and Collection Law ("MWPCL"). At trial, the court granted judgment in one of the co-owners' favor. The jury then returned a verdict in the employees' favor against the company, awarding them compensation for unpaid overtime. However, the jury declined to award the employees enhanced damages under the MWPCL. The employees then filed a post-trial motion, seeking liquidated damages under the FLSA and MWHL, which the court denied. The employees also sought attorneys' fees and costs under the FLSA and MWHL, but the court only awarded a portion of the requested fees.

The employees appealed. They argued that the court erred in granting judgment in the co-owner's favor, that it erred in denying their request for liquidated damages under the FLSA and MWHL, and that it erred in its award of attorneys' fees and costs under those same statutes.

Held: Vacated and remanded.

The Appellate Court of Maryland held that the trial court erred in granting judgment in favor of the co-owner of company on the basis that there was no evidence upon which a jury could find that she was an "employer." The evidence established that this individual was a 51% owner and vice president of the company. She ran the office and had the authority to hire and fire employees, set their pay rates, and establish conditions of employment. She participated in the hiring process by setting up payroll for new employees and managed payroll for the company.

She was responsible for entering the employees' hours daily and distributing paychecks. She also maintained the employees' employment records, including personnel and payroll records. Based on all this, there was legally sufficient evidence to generate a jury question that some factors of the economic reality test were met, upon which the jury could have concluded that the co-owner was an "employer" based on the totality of the circumstances.

Based on the foregoing, the Appellate Court vacated the judgment entered in the co-owner's favor, the judgment entered on the verdict, and the trial court's decision on liquidated damages and fees. The Appellate Court remanded the case for further proceedings, including a new trial. However, the Appellate Court addressed the issue of liquidated damages under the FLSA and MWHL for guidance on remand.

Both the FLSA and the MWHL require an employer to pay an overtime wage of at least 1.5 times the employee's usual hourly wage for each hour worked over 40 in a workweek. Both statutes allow an employee to bring an action against the employer to recover unpaid overtime wages and enhanced damages in the form of liquidated damages.

The liquidated damages provision under the MWHL, which was modeled from the liquidated damages provision under the FLSA, gives the court the discretion to reduce or eliminate the liquidated damages award only if the employer "shows to the satisfaction of the court" that the employer acted in "good faith" and "reasonably believed" that the wages paid were not less than what was required by law. An employer's good faith and reasonable grounds for believing it had not violated the FLSA and the MWHL are each measured objectively.

The good faith defense requires an employer to take serious and informed steps to adhere to the applicable law. One way to satisfy the good faith showing is for the employer to prove that it sought out and adhered to legal advice regarding compliance with the wage statute. In contrast, delegating payroll functions to a third-party or a subordinate does not establish good faith to meet the FLSA's requirements. Likewise, neither simple conformity with industry-wide practice, nor the absence of employee complaints, is sufficient to meet an employer's burden.

The good faith defense is an affirmative defense which is not one of the enumerated defenses required to be pled under Maryland Rule 2-323(g). Moreover, neither the FLSA nor MWHL requires that this defense be specifically pled in an answer. Therefore, the defendants were permitted, but were not required, to plead the affirmative defense of good faith separately. Their failure to do so did not constitute waiver of the defense.

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Midaro Investments 2021, LLC v. Ari Gerzowski, et al., Nos. 1991 and 1992, September Term 2023, filed December 23, 2025. Opinion by Shaw, J.

https://www.mdcourts.gov/data/opinions/cosa/2025/1991s23.pdf

PROPERTY – DEED OF TRUST FORECLOSURE – JURISDICTION – DOCTRINE OF CUSTODIA LEGIS

Facts:

These consolidated appeals arise from overlapping proceedings in the Circuit Court for Baltimore City between Petitioner Midaro Investments 2021, LLC ("Midaro") and Appellees Dominion Properties, LLC ("Dominion") and U.S. Bank National Association ("U.S. Bank"). In 2006, Ari Gerzowski executed a promissory note that was secured by a deed of trust on the subject property, 2702 Lighthouse Point East #518 (the "Property") and included a power of sale provision. The deed of trust was assigned to U.S. Bank.

In 2019, U.S. Bank appointed a substitute trustee to sell the Property in a foreclosure action, subject to the power of sale provision in the deed of trust. Dominion purchased the Property, and the trustee filed a report of sale in the Circuit Court of Baltimore City. Prior to the ratification of the trustee's sale, the Collector of Taxes for the City of Baltimore conducted a tax sale in 2021, and the Property was purchased by Midaro. Thereafter, Midaro filed and was granted, by the Circuit Court for Baltimore City, a judgment foreclosing the taxpayer's rights of redemption and received a fee simple deed to the property in 2023.

Midaro filed exceptions to the trustee's sale which included a motion to vacate the deed of trust foreclosure action in the Circuit Court for Baltimore City. Dominion, in its opposition, requested the denial of Midaro's exceptions because they were filed over three years after the reported sale to Dominion, and to vacate the tax sale foreclosure action on the basis of *custodia legis*.

The court overruled Midaro's exceptions, holding Midaro failed to set forth with particularity the alleged irregularity in the manner or conduct of the sale. The court, in the same order, denied Midaro's motion to vacate the deed of trust foreclosure action holding the tax collector had no authority to sell the Property and that the Property was in *custodia legis* by virtue of the appointment of the substitute trustee to make the sale of the Property. The court, then entered an order ratifying the trustee's sale of the Property to Dominion. The court entered a subsequent order in the tax sale foreclosure action, under the same analysis of *custodia legis* from the previous order, which voided the certificate of tax sale held by Midaro, vacated the judgment foreclosing the rights of redemption, ordered the City of Baltimore to repay Midaro the amount paid at tax sale, plus interest, and dismissed the tax sale foreclosure action. Midaro appealed.

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Held: Affirmed in part. Reversed and remanded in part.

The Appellate Court of Maryland held that the Baltimore City Circuit Court did not err in overruling Midaro's exceptions to the sale of the Property because Midaro's exceptions were related to the ability of the substitute trustee to pass title to Dominion. When a borrower challenges a foreclosure sale by way of filing exceptions to a sale that has already occurred, the borrower's exceptions must be related to the conduct of the sale, not the ability of the substitute trustee to sell the property.

The Court further held that the circuit court erred in vacating Midaro's judgment of foreclosure in the tax sale proceeding because the substitute trustee in the deed of trust foreclosure action was not appointed by the court. The court explained that *Custodia Legis* means in the custody or control of the law. A property placed in *custodia legis* precludes action in another subsequent proceeding which would affect the property's disposition. In a deed of trust foreclosure action, property is placed in *custodia legis* where the trustee is appointed by the court, not by the beneficiary of the deed of trust.

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In the Matter of Jefferson Blomquist, No. 1779, September Term 2024, filed January 29, 20026. Opinion by Arthur, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1779s24.pdf

STATE PERSONNEL AND PENSIONS – EMPLOYEES' PENSION RETIREMENT SYSTEM

Facts:

As a general rule, Harford County employees must participate in the Employees' Pension System (EPS). Membership in the EPS is optional for an employee who is "an official, elected or appointed for a fixed term[.]" Md. Code (1993, 2024 Repl. Vol.), § 23-204(a)(1)(i) of the State Personnel and Pensions Article ("SPP").

The Harford County Attorney is the head of the Harford County Department of Law, an executive agency. The Harford County Charter requires the County Executive to appoint the head of each executive agency within six months after an election. The appointment is subject to confirmation by the Harford County Council.

Robert Cassilly took office as Harford County Executive on December 5, 2022, and appointed Jefferson Blomquist as Harford County Attorney. The County Council confirmed the appointment on December 20, 2022. Blomquist, who is in is late sixties and is unlikely to serve long enough to vest in the EPS, did not enroll in the EPS.

The Executive Director of the Maryland State Retirement Agency notified Blomquist that he was not able to opt out of the EPS because the Harford County Attorney does not serve for a "fixed term" within the meaning of SPP § 23-204(a)(1)(i). Blomquist requested administrative review. The agency issued a proposed summary decision, concluding that the Harford County Attorney does not serve for a "fixed term." The agency's Board of Trustees adopted the proposed summary decision after a hearing.

Blomquist petitioned for judicial review. The Circuit Court for Harford County affirmed the agency's decision, concluding that the County Attorney does not serve for a "fixed term" within the meaning of SPP § 23-204(a)(1)(i). Blomquist appealed.

Held: Affirmed.

The Appellate Court of Maryland affirmed the judgment of the circuit court, affirming the decision of the Maryland State Retirement Agency. The Court held that the Harford County Attorney may not opt out of participation in the EPS because the Harford County is not an

"official . . . appointed for a fixed term" under § 23-204(a)(1)(i) of the State Personnel and Pensions Article.

Although the Harford County Attorney is an appointed official, the Harford County Attorney is not appointed for a "fixed term." In contrast to the Harford County Executive, who serves from a date certain to another date certain four years later, the beginning and end dates of the County's Attorney's term are variable, not fixed. The County Attorney serves for a variable length of time depending on when the County Executive makes the appointment, whether and when the County Council confirms the appointment, whether or when the County Executive exercises discretion to remove the County Attorney from the office, and whether the County Attorney is reappointed by a new County Executive.

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Imani Chiusano, et al. v. Two Farms, Inc., No. 653, September Term 2024, filed January 28, 2026. Opinion by Tang, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0653s24.pdf

ZONING AND PLANNING – PERMITS, CERTIFICATES, AND APPROVALS – PROCEEDINGS ON PERMITS, CERTIFICATES, OR APPROVALS – ADMINISTRATIVE REVIEW – IN GENERAL

Facts:

A developer seeks to build a gas station, convenience store, and full-service car wash on a commercial property in Baltimore County. Generally, fuel service stations are permitted only by special exception, except that they are permitted by right if integrated with and located in a Planned Drive-In Cluster, as defined under the Baltimore County Zoning Regulations ("BCZR") § 101.1.

In October 2018, the Baltimore County Director of Planning sent the developer a letter stating, in pertinent part, that its "request to designate [the property] as a Planned Drive-In Cluster[] is appropriate and approved." The letter provided that the developer "should contact the Bureau of Zoning Review to confirm whether the determination of a Planned Drive-In Cluster is within the spirit and intent of, or necessitates a change to, any existing zoning case rulings"; it further advised "that this development site is within the Pikesville Commercial Design Review Panel Review Area and as such will need to be presented to the Panel for review and approval."

In January 2021, the Director of Permits, Approvals and Inspections ("Director of PAI") approved the development plan. Protestants filed an appeal with the Baltimore County Board of Appeals (the "Board"), objecting to the approval of the development plan. They argued that the approval was predicated on an illegal special law concerning BCZR § 101.1, and, in any event, that the development did not satisfy the Planned Drive-In Cluster definition under BCZR § 101.1.

The developer filed a motion for partial dismissal, requesting that the scope of the Board hearing be limited to the January 2021 approval of the development plan. In relevant part, the developer argued that the protestants should have appealed within thirty days of the October 2018 letter and, because they did not, their attempt to litigate the project's designation as a Planned Drive-In Cluster was untimely.

Ultimately, the Board granted the developer's motion and restricted the scope of the hearing to the merits of the development plan. After a hearing, the Board granted the approval of the development plan.

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After a petition for judicial review was filed, the Circuit Court for Baltimore County affirmed the Board's decision.

Held: Reversed and remanded.

The Appellate Court held that the October 2018 letter from the Director of Planning was not an appealable decision because (1) the Director of Planning lacked the authority to determine whether the proposed project met the criteria of a Planned Drive-In Cluster; (2) there was more to do before the development plan could be approved when the letter was issued; and (3) the purported designation of the proposed project as a Planned Drive-In Cluster was not made known to members of the public, including the aggrieved parties.

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ATTORNEY DISCIPLINE

REINSTATEMENTS

By Order of the Supreme Court of Maryland

BRENDAN MICHAEL O'BRIEN

has been replaced on the register of attorneys permitted to practice law in this State as of January 23, 2026.

*

By Order of the Supreme Court of Maryland

ROBERT PAUL PRATZ

has been replaced on the register of attorneys permitted to practice law in this State as of January 23, 2026.

*

DISBARMENTS/SUSPENSIONS

By an Order of the Supreme Court of Maryland dated November 6, 2025, the following attorney has been indefinitely suspended by consent, effective January 5, 2026:

CENDORIA YVONNE DEAN

*

By an Order of the Supreme Court of Maryland dated November 24, 2025, the following attorney has been indefinitely suspended by consent, effective January 23, 2026:

JOSEPHIA ELEASE GEORGETTA ROUSE

*

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By an Opinion and Order of the Supreme Court of Maryland dated January 27, 2026, the following attorney has been disbarred:

JUDITH MARIE HAMILTON

*

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JUDICIAL APPOINTMENTS

*

On December 5, 2025, the Governor announced the appointment of **OTIS WENDELL FREEMAN** to the District Court for Baltimore City. Judge Freeman was sworn in on January 5, 2026, and fills the vacancy created by the retirement of the Hon. L. Robert Cooper.

*

On December 5, 2025, the Governor announced the appointment of **ELIZABETH LOPEZ** to the District Court for Baltimore City. Judge Lopez was sorn in on January 12, 2026, and fills the vacance created by the retirement of the Hon. Joyce M. Baylor-Thompson.

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RULES ORDERS

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A Rules Order pertaining the 226th Report of the Standing Committee on Rules of Practice and Procedure was filed on January 22, 2026.

https://www.mdcourts.gov/sites/default/files/rules/order/ro226th.pdf

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UNREPORTED OPINIONS

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

https://mdcourts.gov/appellate/unreportedopinions

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