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SUPREME COURT OF MARYLAND

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Gould, J., concurs.

https://mdcourts.gov/data/opinions/coa/2026/34a25.pdf

FOURTH AMENDMENT – STOP – REASONABLE SUSPICION – TIP

Facts:

A police officer received a call on his cell phone from a long-time acquaintance who said that there was a "suspicious black sedan" parked on a street in her townhome community. The caller was a resident of the townhome community whom the officer had known "personally" for years and whom the officer believed to be "credible." The call was not recorded and the caller did not want her name to be disclosed. The caller advised that the car at issue was "unfamiliar" and had been on her street for "an extended period of time" with cell phones "going on and off" in the car. According to the police officer, the caller told him that she "thought" the occupants of the car "were up to illegal activity, possibly breaking into vehicles."

The officer, traveling in a marked police vehicle, located the car on the street that the caller said it would be, facing forward at the end of the dead-end street. Two other marked police vehicles arrived and assumed staggered positions behind the first officer's vehicle, effectively blocking the car's ability to leave. The officer turned on his vehicle's overhead spotlight and began to approach the car. As the officer approached the car, it began to move forward slowly at approximately 5 to 10 miles per hour. The officer testified that he believed the driver was attempting to make a three-point turn; so, he returned to his police car and activated its red and blue emergency flashing lights. According to the officer, at this point, he believed he had reasonable suspicion to detain the driver of the car. When the officer approached the car, he smelled the odor of marijuana emanating from the vehicle, and another officer observed a large quantity of marijuana on the back seat. When Petitioner, Xavier S. Kopp, the driver of the car, got out of the vehicle, he told the officers that he had a firearm. Mr. Kopp was arrested and charged with marijuana and firearm offenses.

Mr. Kopp moved to suppress evidence recovered pursuant to the stop of his car. At the suppression hearing, the officer who received the call testified that the area in which Mr. Kopp's

car was stopped is a high-crime area and that this, along with the tip and the movement of the car, caused him to believe there was reasonable suspicion. The circuit court denied the motion to suppress. After the denial of the motion, Mr. Kopp entered a conditional guilty plea to possession of a regulated firearm by a person under the age of 21 and was sentenced to a period of imprisonment.

Mr. Kopp noted a timely appeal. The Appellate Court of Maryland affirmed the judgment of the circuit court. *See Kopp v. State*, No. 1250, Sep. Term, 2023, 2025 WL 1648956, at *1, *13 (Md. App. Ct. June 11, 2025). Mr. Kopp filed a petition for a writ of certiorari, which the Supreme Court of Maryland granted. *See Kopp v. State*, 492 Md. 411, 344 A.3d 676 (2025).

Held: Reversed.

The Supreme Court of Maryland held that, under the totality of the circumstances presented in the case, the officer lacked reasonable suspicion to stop Mr. Kopp's car.

The Supreme Court of Maryland concluded that the tip was devoid of the indicia of reliability necessary to establish reasonable suspicion, as it provided no indication of the caller's basis of knowledge for the prediction that the occupants of the car may have been breaking into cars or were up to illegal activity and contained no information from which it could be concluded that the prediction was a reliable one. The information that the caller provided lacked any support for the forecast that the occupants of the car may have been engaged in illegal activity or were possibly breaking into cars. And, based on the content of the tip, there was no reason to conclude that the caller was a person who had any knowledge about the occupants of the car, other than her contemporaneous observations of the car.

The Supreme Court of Maryland stated that, viewing the evidence in the light most favorable to the State, the caller advised that she observed: (1) an unfamiliar car, i.e., a black sedan; (2) stopped or parked for an extended period of time on a street in her townhome community; (3) with multiple occupants (according to the police officer, the car was "occupied multiple times"); and (4) cell phones were going off in the car. Based on this, the caller advised that she thought the occupants of the car might be "up to illegal activity, possibly breaking into vehicles." The tip contained information about facts existing at the time of the tip, but no information about anticipated or future actions of the occupants of the car that would indicate that the caller had a basis for the prediction that the occupants might be engaged in illegal activity. The tip itself contained no information about the caller's basis of knowledge—*i.e.*, why the caller thought the occupants of the car may have been engaged in illegal activity or breaking into cars—other than the location of the car, that it was "unfamiliar to the area," that it had been there for an extended period of time, and that there were people in it using cell phones. Based on the officer's testimony at the suppression hearing, the tip amounted to no more than the caller's hunch or guess that criminal activity may have been afoot.

The Supreme Court of Maryland concluded that at the time that the officer stopped Mr. Kopp's vehicle, the tip as corroborated by his observations did not provide reasonable suspicion that Mr. Kopp or any of the occupants of the car were engaged in criminal activity. The Court explained the shortcoming with respect to the officer's corroboration of the tip from his acquaintance—the officer arrived at an identified location and found a car fitting the description that the caller gave, in the location that the caller said it would be, and with people in the car as the caller said there would be. The aspects of the tip that the officer corroborated, however, did not furnish any indicia of reliability with respect to the tip's assertion of illegality. The tip was corroborated only in its tendency to identify a determinate person or in this case, a car, but not in any way as to the reliability of the allegation of potential criminal conduct, and therefore the tip, as corroborated, did not generate reasonable suspicion for the stop.

The Supreme Court of Maryland concluded that information used in the reasonable suspicion analysis concerning the level of crime in the area and whether the location was a high-crime area or an area with a significant level of crime did not meet the criteria that it be information known to the police officer at the time of the stop. In addition, the officer's testimony concerning "calls for service" alone was not sufficient to establish that the location was a high-crime area.

The Supreme Court of Maryland held that testimony that a location is a high-crime area was not sufficient to establish the location to be a high-crime area as a factor in the reasonable suspicion analysis. The Court reaffirmed its holding in *Washington v. State*, 482 Md. 395, 443, 287 A.3d 301, 330 (2022), that,

> testimony concerning a location being a high-crime area must be particularized as to the location or geographic area at issue, the criminal activity known to occur in the area, and the temporal proximity of the criminal activity known to occur in the area to the time of the stop. Testimony must identify a location or geographic area, not an overly broad region, and particular criminal activity occurring in the not-too-distant past, to support the conclusion that the location is indeed a high-crime area. Additionally, the conduct giving rise to officers' suspicions must not be inconsistent with the nature of the crimes alleged to establish the high-crime area.

(Citation omitted).

The Supreme Court of Maryland concluded that the movement of Mr. Kopp's car did not constitute flight and was a circumstance that added nothing to the reasonable suspicion analysis.

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Miguel Angel Santana v. State of Maryland, No. 19, September Term 2025, filed April 28, 2026. Opinion by Eaves, J.

Watts, Biran, and Gould, JJ., dissent.

https://www.mdcourts.gov/data/opinions/coa/2026/19a25.pdf

CRIMINAL LAW – MISTRIAL – PROHIBITION ON DOUBLE JEOPARDY – NO RECKLESS STATE ACTION

Facts:

In 2019, the State brought Miguel Angel Santana to trial in the Circuit Court for Charles County on charges related to a murder that occurred in 2016 ("Santana I"). Prior to trial, the State and Mr. Santana agreed to exclude any evidence relating to firearms, ammunition, or marijuana recovered during a 2016 search of Mr. Santana's home (collectively referred to as "the excluded evidence"), as none of those items were relevant to the charges against Mr. Santana. The jury convicted Mr. Santana of conspiracy to commit first-degree murder and a firearm possession charge, but it otherwise could not reach a verdict on the remaining counts, so the circuit court declared a mistrial on those counts.

In 2023, the State retried Mr. Santana on the counts that had previously resulted in a hung jury ("Santana II"). During that trial, the State questioned an officer who executed a 2016 search warrant and who similarly testified in Santana I. During that testimony, the officer was asked if he could recall the address where the warrant was executed. He could not but indicated that his supplemental report would contain the address. The State provided the supplemental report, which happened to reference the excluded evidence, and instructed the officer to put the report away after he refreshed his recollection as to the address. When eventually asked if he collected anything from the bedroom where the warrant was executed, the officer mentioned the excluded evidence. Defense Counsel immediately moved for a mistrial, arguing that the State had violated the parties' agreement entered into prior to Santana I. At the ensuing bench conference, the State explained that the officer's testimony came as a surprise, was not what the State was anticipating him to say, and confirmed that it had prepped the officer that it would be looking for information regarding a cellphone. The State did not specifically inform the officer to avoid mentioning the excluded evidence. The State believed that a curative instruction would solve the matter, but defense counsel disagreed. The circuit court paused the proceedings for the day and informed the parties to come back the following day. The next day, the State indicated that it was not opposed to Mr. Santana's motion for a mistrial, which the court subsequently granted.

A third trial was scheduled for February 2024, but, prior to that date, Mr. Santana filed a motion to dismiss the indictment on double jeopardy principles. Mr. Santana argued that Maryland should adopt under its common law double jeopardy jurisprudence a recklessness standard that would prohibit the State from retrying a defendant where the State, in a prior trial, engaged in

reckless conduct that caused a defendant to successfully move for a mistrial. Under such a standard, Mr. Santana argued that the State was reckless both in preparing the officer who testified at *Santana II* and in the actual questioning of that officer. The circuit court denied Mr. Santana's motion, ruling that Maryland utilized an intentional standard and that the State acted neither intentionally nor recklessly in this case. The circuit court granted Mr. Santana's request to stay the proceedings pending appeal.

On appeal to the Appellate Court of Maryland, Mr. Santana pressed the same arguments that he had in the circuit court, which a divided panel rejected. *Santana v. State*, No. 1572, 2025 WL 601454 at *1 (Md. Ct. App. Feb. 25, 2025). Under Maryland common law, the court stated, double jeopardy concerns do not attach unless the court makes "a factual finding pertaining to the elements of the criminal charge[.]" *Id*. at *5. Because the circuit court did not make any factual findings regarding Mr. Santana's criminal charges, the Appellate Court held, his common law jeopardy rights did not attach. *Id*. Even if jeopardy had attached, the Appellate Court stated that it nevertheless would not have adopted the reckless standard for which Mr. Santana advocated. *Id*. at *6–8. The Appellate Court further noted that Mr. Santana failed to challenge the circuit court's factual finding that the State's conduct was neither intentional nor reckless and that, even if Mr. Santana had properly presented those challenges, the circuit court's factual findings were not clearly erroneous. *Id*. at *8.

Held: Affirmed.

The Supreme Court of Maryland held that, because the State of Maryland's common law had not been adequately briefed, it would assume—without deciding—that Maryland's common law prohibition against double jeopardy extended to mistrials and barred a subsequent prosecution where the State recklessly caused a defendant to successfully move for a mistrial in a prior trial. Even with that assumption, however, the Court held that Mr. Santana had not demonstrated that the circuit court committed clear error when it found that the State had not acted recklessly.

The Court discussed various facts that constituted "competent evidence" in the record to support the circuit court's finding that the State was not reckless. First, the Court noted that, in *Santana I*, the testifying officer mentioned recovery of the cellphone when executing the search warrant without otherwise mentioning the excluded evidence. It, therefore, was rational for the State to believe that the officer would similarly testify in Santana II. Second, the State gave the officer his supplemental report only after the officer indicated that the address would be on only that document, and the State twice instructed the officer to put away the report once it refreshed his recollection as to the address. Third, when the State initially questioned the officer after refreshing with the supplemental report, it asked whether he recovered anything "significant to the investigation," but defense counsel objected, arguing that the State was leading. The circuit court found that the State very well could have been attempting to steer the officer away from the excluding evidence by asking its question in that manner. In any event, the State rationally could have sought to avoid another objection by asking the officer a more open-ended question. Fourth, the State unequivocally disclaimed that it was eliciting testimony about the excluded evidence

and was not at all expecting the officer to mention that evidence. Fifth, the Court noted that the record did not disclose, in the four years between Santana I and Santana II, whether defense counsel took any steps to confirm with the State that their agreement prior to Santana I was still in place or otherwise indicate to the State that Mr. Santana was going into Santana II on the assumption that agreement was still in place.

The Supreme Court held that all of that constituted competent evidence that could support the circuit court's factual determination that the State did not act recklessly in Santana II and affirmed the Appellate Court's judgment.

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Engage Armament LLC, et al. v. Montgomery County, Maryland, No. 9, September Term 2025, filed April 28, 2026. Opinion by Fader, C.J.

https://www.mdcourts.gov/data/opinions/coa/2026/9a25.pdf

SCOPE OF RELIEF – PROPER AMENDMENT OF COMPLAINT – ADDITION OF NEW ISSUES IN SUMMARY JUDGMENT MOTION

EXPRESS POWERS ACT – LOCAL FIREARM REGULATION – EXPRESS

AUTHORIZATION, CRIMINAL LAW § 4-209(b)(1) – WITHIN 100 YARDS OF OR IN A PARK, CHURCH, SCHOOL, PUBLIC BUILDING, OR OTHER PLACE OF PUBLIC ASSEMBLY & WITH RESPECT TO MINORS

EXPRESS POWERS ACT – LOCAL FIREARM REGULATION – CONFLICT PREEMPTION

HOME RULE AMENDMENT – EXPRESS POWERS ACT – LOCAL FIREARM REGULATION – LOCAL LAW

TAKINGS – FIREARM REGULATION – ENJOINED LAWS

Facts:

In 2021 and 2022, the Montgomery County Council amended Chapter 57 of the county code, which regulates the use and possession of firearms in the County. As relevant to this case, the amendments: (1) regulated so-called "ghost guns," which are firearms lacking required serial numbers; (2) expanded the County's prohibition on the carry of firearms in or within 100 yards of a place of public assembly to additional locations; and (3) removed an exception to that prohibition for carriers of State-issued handgun wear and-carry permits.

Two businesses and eight individuals (collectively, the "Challengers") filed suit in the Circuit Court for Montgomery County challenging the amended provisions. The County removed the case to the United States District Court for the District of Maryland, and that court remanded the following issues back to the circuit court: whether Chapter 57 as amended (1) is preempted by State law; (2) is not a local law and so violates the Express Powers Act; and (3) effects an unconstitutional taking. The circuit court granted the Challengers' motion for summary judgment and awarded declaratory and injunctive relief. The Appellate Court of Maryland remanded for further explanation and analysis.

Held: Vacated.

Judgment of the Appellate Court vacated with instructions to affirm in part and reverse in part the decision of the circuit court and remand to that court with instructions to enter judgment and award declaratory and injunctive relief consistent with this opinion.

The Court first held that the circuit court should not have ruled on the validity of a provision that was not challenged in the operative complaint. The Court held that a party may not amend its complaint in a summary judgment motion.

The Home Rule Amendment of the Maryland Constitution, Article XI-A, directs the General Assembly to grant charter counties the power to enact local laws. In the Express Powers Act, the General Assembly granted counties the power to enact ordinances that maintain the "peace, good government, health, and welfare of the county." However, any county ordinances must: (1) not be inconsistent with, preempted by, or in conflict with State law; and (2) be local laws.

The Court first considered whether State law preempts the amended provisions of Chapter 57 either expressly, impliedly, or by conflict. Express preemption occurs when the General Assembly prohibits local laws using specific language in a statute. Section 4-209(a) contains a broad preemption of the right of any local government "to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of" a firearm or ammunition. Section 4-209(b)(1) carves out an exception for local regulation of "the purchase, sale, transfer, ownership, possession, and transportation" of firearms: (i) "with respect to minors;" (ii) "with respect to law enforcement officials of the subdivision;" and (iii) "within 100 yards of or in a park, church, school, public building, and other place of public assembly." The Court held that the General Assembly's express authorization of local regulation in those three areas is not preempted by § 4-209(a) or other statutes generally preempting local regulation of firearms.

The Court then considered whether the challenged provisions of Chapter 57 are authorized by § 4-209(b)(1). First considering § 4-209(b)(1)(iii), the Court interpreted a "place of public assembly" as a location that is open for members of the public to gather for a common purpose. The Court determined that some of the locations identified in Chapter 57 as places of public assembly, including parks, places of worship, libraries, and polling places, meet that definition, while others, including hospitals, community health centers, long-term facilities, and childcare facilities, do not. Next considering § 4 209(b)(1)(i), the Court held that the County had authority to enact only local laws that meaningfully address minors' unsupervised use of and access to firearms. The Court found that § 57-7(d) of the County Code, which prohibits the purchase, sale, transfer, possession, or transport of ghost guns in the presence of minors, was preempted because it regulated adults' conduct merely because it occurred in the presence of a minor. The Court severed the remaining non preempted provisions of § 57-7.

The Court then held that Chapter 57 was not preempted by implied field preemption. Implied field preemption occurs only when the State has acted with such force that an intent to occupy the field must be implied. Here, the State expressly authorized local regulation under § 4-209(b)(1).

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The Court rejected most of the Challengers' conflict preemption arguments because they did not identify actual conflicts between State and local law. A local law can be more restrictive than State law without being in conflict with it. However, the Court identified a conflict concerning firearm serialization. While Public Safety § 5-703(b)(2) permits possession of firearms serialized by federally licensed firearms dealers, Chapter 57 does not. The Court held that the ghost gun provisions in Chapter 57 are preempted by State law to the extent they do not recognize firearms that have been serialized by federally licensed firearms dealers as compliant.

The Court next considered whether Chapter 57 as amended is a valid local law. A local law must be local in form and in effect and must not have significant extraterritorial effects. The Court held that § 57-11(a) is not a local law because it purports to inhibit the ability of holders of State-issued wear and carry permits to travel on public highways within the County.

Finally, the Court held that the Challengers did not experience an unconstitutional taking of their ghost guns and major components without just compensation. The Court observed that Chapter 57 does not require owners to surrender their ghost guns; it only requires that they get those firearms serialized in compliance with State and federal law.

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CareFirst BlueChoice, Inc. v. Matthew Skipper, et al., No. 21, September Term 2025, filed April 27, 2026. Opinion by Fader, C.J.

Biran and Gould, JJ., dissent.

https://www.mdcourts.gov/data/opinions/coa/2026/21a25.pdf

STANDING – MOOTNESS EXCEPTION IN CLASS ACTION SUITS

STATUTORY AND REGULATORY INTERPRETATION – IN-VITRO FERTILIZATION INSURANCE MANDATE

CONTRACT INTERPRETATION

Facts:

The Skippers obtained an insurance policy from CareFirst through the Maryland Health Benefit Exchange. The policy provided benefits for infertility services, including in-vitro fertilization. The policy excluded coverage for "[o]vum transplants and gamete intra-fallopian tube transfer, zygote intra-fallopian transfer, or cryogenic or other preservation techniques used in these or similar procedures" under Exclusion 16.11. In 2018, the Skippers sought pre-authorization for IVF treatment using embryos they had previously frozen. CareFirst authorized three rounds of IVF treatment, except for the cost of embryo thawing, which it asserted was not a covered benefit. The Skippers underwent the IVF treatment, paying the $900 cost of embryo thawing themselves.

The Skippers later filed a complaint with the Maryland Insurance Administration. While the complaint was pending with the Administration, the Skippers filed a putative class action lawsuit in the United States District Court for the District of Maryland. The Skippers sought certification of a class of all persons in Maryland who received coverage for IVF services but not for related embryo thawing under a CareFirst policy. The Skippers brought counts for breach of contract, negligent misrepresentation, and declaratory judgment, and sought relief in the forms of class certification, actual damages, attorney's fees and costs, pre-judgment and post-judgment interest, injunctive relief, and declaratory relief.

Twenty-three days after the Skippers filed their federal complaint, CareFirst changed its position, issued a new explanation of benefits, and reimbursed the Skippers' medical provider $900 for the cost of embryo-thawing.

The federal district court dismissed the Skippers' class action complaint for lack of jurisdiction. Fifteen days later, the Skippers filed a complaint in the Circuit Court for Prince George's County with the same factual allegations, proposed class definition and allegations, counts, and relief. CareFirst moved to dismiss, arguing that its $900 reimbursement mooted the Skippers' claim and

that the Skippers failed to state a claim on which relief could be granted because benefits for embryo thawing are excluded under the Skippers' policy and not required by Maryland law.

The circuit court granted the motion based on mootness. The Appellate Court reversed, holding that the Skippers' claim was not moot because CareFirst could not moot a claim by paying the damages of a class representative before the plaintiff had a reasonable opportunity to seek class certification.

Held: Affirmed.

Affirmed and remanded to the Appellate Court with instructions to reverse the judgment of the circuit court and remand to that court for further proceedings.

The Court held that the Skippers' claim was not moot based on an extension of its holding in *Frazier v. Castle Ford, LTD.*, 430 Md. 144 (2013). In *Frazier*, the Court acknowledged that if defendants could defeat class actions by tendering relief to the class representative—effectively "picking off" the class representative—many meritorious class actions would be thwarted. In *Frazier*, the Court determined that "the better rule is to . . . hold that a tender of individual relief to the putative class representative does not moot a class action if the individual plaintiff has not had a reasonable opportunity to seek class certification, including any necessary discovery." The Court extended the holding of *Frazier* to cover class actions that are initially filed in another court, dismissed for lack of jurisdiction, and promptly refiled in substantially the same form in state court. Accordingly, the Court found the class action complaint was not moot and that the Skippers had standing.

The Court then applied established principles of statutory interpretation to determine whether Maryland law permitted the exclusion of embryo thawing benefits from the Skippers' policy. The Court held that (1) Insurance § 15-810 requires insurers to cover the expenses arising from IVF procedures to the same extent as expenses arising from other pregnancy-related procedures; and (2) Administration Bulletin 13-01 distinguishes permissible exclusions in individual health plans and small employer insurance plans by stating that the IVF exclusion in COMAR 31.11.06.06B(11) is not permitted in individual health plans like the Skippers' policy.

Turning to contract interpretation, the Court reaffirmed that it infers that statutory or regulatory language inserted in a contract is intended to have the same effect as it has in the statute or regulation. Because CareFirst borrowed language directly from COMAR 31.11.06.06B(11), amended in light of Bulletin 13-01, the Court applied the same interpretation. The Court held that the exclusion in the Skippers' policy does not apply to any medically necessary expenses of IVF procedures. The Court remanded the case to the trial court for further proceedings.

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APPELLATE COURT OF MARYLAND

Lee Boyd Malvo v. State of Maryland, No. 1568, September Term 2024, filed May 1, 2026. Opinion by Ripken, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1568s24.pdf

APPELLATE JURISDICTION – COLLATERAL ORDER DOCTRINE – GUILTY PLEA

APPELLATE JURISDICTION – COLLATERAL ORDER DOCTRINE – GUILTY PLEA – SEPARATE FROM THE MERITS

APPELLATE JURISDICTION – COLLATERAL ORDER DOCTRINE – GUILTY PLEA – REVIEWABLE AFTER FINAL JUDGMENT

APPELLATE JURISDICTION – COLLATERAL ORDER DOCTRINE – DELAY IN SENTENCING – DUE PROCESS

Facts:

In October of 2006, Lee Boyd Malvo ("Appellant") pled guilty to six counts of first-degree murder in the Circuit Court for Montgomery County. At the plea hearing, the State indicated that it intended to seek a sentence of life without the possibility of parole and was making no concessions. The hearing judge reiterated the parties' positions pursuant to the plea, which was that Appellant plead guilty to six counts of first-degree murder, with the State reserving the right to seek six sentences of life incarceration without the possibility of parole; the court then inquired of Appellant whether "any other promises, threats[,] or inducements" had been made to get him to plead guilty. Appellant responded in the negative. The court found there was a factual basis to support the plea and found Appellant guilty of six counts of first-degree murder. Later that year, Appellant was sentenced to the maximum sentence of six terms of life in prison without the possibility of parole, to run consecutive to each other and consecutive to the four sentences of life without parole that he was serving in Virginia.

Appellant filed a motion to correct an illegal sentence in 2017, arguing that a sentence of life incarceration without the possibility of parole was not permitted for a juvenile offender found guilty of murder unless the sentencing judge first determined that the offender was irredeemable. The Supreme Court of Maryland vacated Appellant's sentences in 2022, holding that it was unclear whether Appellant's sentencing complied with the Eighth Amendment.

Following the opinion of the Supreme Court of Maryland, a series of status hearings were held in the circuit court to determine the manner in which Appellant would be resentenced, as he was serving four life sentences in Virginia. The State asserted that the Interstate Agreement on Detainers could not be used to transport Appellant and there was no other apparent mechanism to effectuate Appellant's presence from his detention in Virginia to a hearing in Maryland. Appellant contended that any delay in resentencing would be a violation of due process because he would be unable to argue for a sentence running concurrent to the Virginia sentences. He also suggested there were other means of ensuring his presence, including a mechanism available to the State for bringing out-of-state witnesses to testify. Between January of 2023 and September of 2024, the court and the parties attempted various methods of acquiring Appellant's presence for resentencing. Appellant declined the opportunity for a remote resentencing. The court issued a writ to the Virginia prison in which Appellant was being held; and the State communicated with the Office of the Secretary of State in Maryland and the Office of the Secretary of the Commonwealth in Virginia to determine whether an executive agreement could be reached to extradite Appellant to Maryland for resentencing. These efforts were ultimately unsuccessful.

In October of 2023, Appellant filed a motion to vacate plea agreement, claiming that in his plea, he retained the right to allocute. Appellant asserted that the State had the power to bring him to Maryland under the Interstate Agreement on Detainers, and that if the State remained unsuccessful in arranging to transport Appellant for resentencing, a material term of his plea agreement would be breached because Appellant would be unable to allocute for a lesser sentence. The State responded that at the plea hearing, it had made no promises or concessions to Appellant; nor did it promise to assure that he would be brought to Maryland in the event of future resentencing. The State further noted that the Interstate Agreement on Detainers does not apply to sentencing and is not a lawful mechanism through which the State could obtain Appellant's presence for resentencing.

The court conducted a hearing on the motion to vacate in September of 2024. The court noted that it was clear that Virginia would not permit Appellant to be transported from Virginia to Maryland; the court further found that there was no basis to vacate the plea based on the State's lack of success in having Appellant transported from Virginia to Maryland because it was not within the State's power to effectuate that transportation. The court determined that this did not negate Appellant's guilty plea and hence denied Appellant's motion to vacate. The court then issued a bench warrant for Appellant to serve as a detainer so that Appellant could be resentenced in Maryland once he was released from Virginia. This appeal followed.

Held: Dismissed.

In general, an appeal may only be taken from a final judgment. In a criminal case, no final judgment exists until after conviction and sentence has been determined, or, in other words, when only the execution of the judgment remains. The collateral order doctrine is a common law exception to the final judgment requirement. The collateral order doctrine allows for immediate appeal of an order if it (1) conclusively determines the disputed question, (2) resolves an

important issue, (3) resolves an issue that is completely separate from the merits of the action, and (4) would be effectively unreviewable if the appeal had to await the entry of a final judgment.

Orders determining the existence and enforceability of plea agreements have sometimes been held to satisfy the collateral order doctrine, particularly where the order is separate from the merits and the benefit gained in the agreement would be lost without the interlocutory appeal. However, the Appellate Court of Maryland determined that the order denying the request to withdraw the guilty plea did not satisfy the collateral order doctrine because, in seeking to withdraw the adjudication of guilt, Appellant's matter was entwined with, rather than separate from, the merits of the action. In addition, orders denying motions to withdraw guilty pleas are routinely reviewed at the conclusion of cases, making the order in this case reviewable upon entry of a final judgment.

The Appellate Court of Maryland held that the court's determination that Appellant's sentencing must occur after the conclusion of the Virginia sentences is likewise not a collateral order because it is reviewable following the entry of a final judgment. The Court examined Appellant's argument that a delay in sentencing would violate his due process rights and may be unreviewable because he may never be released from Virginia. The Court observed that although the right to a speedy trial does not apply to sentencing, a delay in sentencing may violate due process if the delay is prejudicial. The primary concern when evaluating whether a sentencing delay is prejudicial is the prejudice resulting from the delay rather than the delay itself. The Court further explained that consideration of whether a delay in sentencing is unreasonable or has violated a defendant's due process rights is reviewable on appeal after a final judgment is entered, and courts in Maryland and throughout the United States routinely review the question of whether a delayed sentence has resulted in a due process violation after sentencing has occurred. Therefore, the issue is reviewable upon entry of a final judgment, and the order does not satisfy the collateral order doctrine.

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Dion Guthrie v. Patrick Vincenti, No. 2203, September Term 2024, filed May 6, 2026. Opinion by Zic, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/2203s24.pdf

SUMMARY JUDGMENT — STANDARD OF REVIEW

NOLO CONTENDERE PLEA — ACCEPTANCE

PROBATION BEFORE JUDGMENT — STATUTORY FRAMEWORK

MARYLAND CONSTITUTION, ARTICLE XV, SECTION 2 — REMOVAL BY OPERATION OF LAW

Facts:

This appeal arises from a complaint filed by Dion Guthrie, appellant, against Patrick Vincenti, appellee, in the Circuit Court for Harford County. Mr. Guthrie's complaint sought declaratory and injunctive relief for his allegedly wrongful removal from the Harford County Council ("Council") following criminal plea proceedings in the Circuit Court for Baltimore County. Mr. Guthrie challenged his removal from elected office, arguing the nolo contendere plea was not accepted and thus invalid.

In Baltimore County, Mr. Guthrie was charged with felony theft and entered a nolo contendere plea before Judge Dennis M. Robinson, Jr., who found the plea knowing, voluntary, and intelligent. Although Judge Robinson stated he would "strike the plea," he ultimately accepted the plea, found sufficient facts to support guilt, and placed Mr. Guthrie on probation before judgment. Following the Baltimore County plea proceedings, Mr. Vincenti and Council Attorney Meaghan Alegi notified Mr. Guthrie that he was removed from office by operation of law under Article XV, Section 2 of the Maryland Constitution, which mandates automatic removal from elected office upon entry of a nolo contendere plea for qualifying crimes.

Mr. Vincenti, the Council president, moved for summary judgment, among other relief. After reviewing the record and hearing argument, Judge Yolanda L. Curtin, presiding, granted summary judgment in favor of Mr. Vincenti. Mr. Guthrie timely appealed.

Held: Affirmed.

The Appellate Court of Maryland held that Mr. Guthrie entered a valid nolo contendere plea to a felony theft charge, which triggered his automatic removal from elected office under Article XV, Section 2 of the Maryland Constitution. Despite Judge Robinson's statement about "striking the

plea," the totality of the record, including the plea hearing transcript, waiver of rights form, and probation order, showed that the plea was knowingly, voluntarily, and intelligently entered.

Removal of an elected official under Article XV, Section 2 occurs by operation of law upon entry and acceptance of a nolo contendere plea, and no further formal acceptance or action is required. Accordingly, there was no genuine dispute of material fact underlying Mr. Guthrie's complaint against Mr. Vincenti. The circuit court, therefore, properly granted summary judgment in Mr. Vincenti's favor.

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Robert Laverne Wittwer v. State of Maryland, No. 2006, September Term 2024, filed May 1, 2026. Opinion by Wells, C.J.

https://www.mdcourts.gov/data/opinions/cosa/2026/2006s24.pdf

CRIMINAL LAW – ILLEGAL SENTENCE – SCOPE OF MARYLAND RULE 4-345(a)

CRIMINAL LAW – VENUE AND JURISDICTION – REMOVAL OF CRIMINAL CASES – SCOPE OF TRANSFER ORDER

CRIMINAL LAW – NOTICE OF INTENT TO SEEK LIFE WITHOUT PAROLE -EFFECT OF VENUE TRANSFER

CRIMINAL LAW – GUILTY PLEA – ADEQUACY OF PLEA COLLOQUY – UNDERSTANDING THE NATURE OF THE CHARGE

Facts:

Appellant Robert Laverne Wittwer appeals from the Circuit Court for Anne Arundel County's denial of his Motion to Correct Illegal Sentence filed pursuant to Maryland Rule 4-345(a). Wittwer pled guilty to first-degree murder in 1999 and was sentenced to life imprisonment without the possibility of parole for the stabbing death of a fellow inmate at the Maryland House of Corrections Annex.

In 1997, Wittwer was indicted in the Circuit Court for Anne Arundel County for first-degree murder and conspiracy to commit murder. The State filed a notice of intent to seek the death penalty and life without the possibility of parole. In October 1998, Wittwer filed a Request for Reassignment and Removal pursuant to Maryland Rule 4-254(b)(1), and the Administrative Judge granted the motion, ordering the case removed to the Circuit Court for Howard County for trial, while specially assigning an Anne Arundel County judge to preside. The specially assigned judge issued a written order providing that all pretrial and preliminary motions would be heard in Anne Arundel County, and only the jury trial and sentencing would be heard in Howard County.

On April 2, 1999, the parties appeared in Anne Arundel County for what had been scheduled as a pretrial motions hearing. The parties advised the court they had reached a plea agreement under which Wittwer would plead guilty to one count of first-degree murder in exchange for the State's agreement to enter a nolle prosequi on the conspiracy count, withdraw the notice of intent to seek the death penalty, and recommend a sentence of life imprisonment without the possibility of parole. The judge conducted a plea colloquy during which Wittwer confirmed he understood the terms and was satisfied with his attorney's advice. The State presented a statement of facts, and the court found Wittwer guilty. On May 18, 1999, Wittwer was sentenced in Anne Arundel County to life imprisonment without the possibility of parole. At the time of his guilty plea,

Wittwer was already serving two life sentences plus forty years following unrelated convictions for two counts of first-degree murder in Prince George's County.

Twenty-five years later, on October 23, 2024, Wittwer filed a Motion to Correct Illegal Sentence and a Petition for Post-Conviction Relief. The petition for post-conviction relief was dismissed as untimely. The Motion to Correct Illegal Sentence was denied. Wittwer timely noted this appeal.

Held: Affirmed.

The Appellate Court of Maryland held the circuit court did not err in denying Wittwer's Motion to Correct Illegal Sentence. The Court addressed three arguments Wittwer raised, finding none cognizable under Rule 4-345(a) and all meritless.

First, the Court held that the removal of Wittwer's case from Anne Arundel County to Howard County for trial operated as a change of venue, not a divestiture of subject matter jurisdiction. Because all Maryland circuit courts possess subject matter jurisdiction over felony cases under Md. Code Ann., Cts. & Jud. Proc. § 1-501, the removal order changed only the proper place for trial—not the power of the Anne Arundel County court to adjudicate the case. The Court further held that Wittwer's objection to venue was waived by his failure to raise it at the time of his plea. Even on the merits, the Court concluded the guilty plea was properly accepted during a pretrial motions hearing in Anne Arundel County because the specially assigned judge's order retained pretrial proceedings there, and the purpose of removal—eliminating local prejudice in jury selection—was not implicated by the acceptance of a guilty plea.

Second, the Court held that the State was not required to refile its notice of intent to seek life without parole in Howard County after the horizontal venue transfer. The notice filed in Anne Arundel County traveled with the case. Because Wittwer's sentence of life without parole did not exceed the maximum permitted by law for first-degree murder, his claim did not implicate the inherent legality of the sentence.

Third, the Court held that Wittwer's challenge to the adequacy of his plea colloquy was not cognizable under Rule 4-345(a) because it concerned a procedural irregularity in the plea proceedings rather than the inherent legality of the sentence. Even on the merits, the Court concluded the record supported that Wittwer's plea was knowing and voluntary under the totality-of-the-circumstances standard. The plea agreement read into the record identified the charge as first-degree murder, Wittwer confirmed he understood its terms and was satisfied with counsel's advice, the State presented a detailed factual basis, and Wittwer had already been convicted on two prior counts of first-degree murder.

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Timothy Aaron Covington v. State of Maryland, No. 939, September Term 2024, filed May 1, 2026. Opinion by Ripken, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0939s24.pdf

SUBJECT MATTER JURISDICTION – CRIMINAL PROCEDURE – CONCURRENT JURISDICTION OF CIRCUIT COURT AND DISTRICT COURT – EFFECT OF JURY DEMAND

Facts:

In August of 2023, Timothy Covington ("Appellant") arrived at a Royal Farms in Caroline County to purchase gas. An issue arose when the funds were placed on a certain pump; however, Appellant's vehicle was located at a different pump. Another customer had pumped $6.00 in gas from the pump where the funds had been allocated. Employees of the Royal Farms provided a refund of $44.00 and advised Appellant that Appellant could contact corporate to obtain the remaining refund. When Appellant learned that the remaining $6.00 could not be refunded by the employees, he escalated the incident. Appellant ripped the register from the counter, walked behind the counter into the employee-only zone, and began throwing punches, striking two Royal Farms employees. The employees, with assistance from a customer, pushed Appellant out of the store.

Appellant was criminally charged in relation to the incident with two counts of second-degree assault. The case was initially brought in the District Court of Maryland for Caroline County. Less than a week before the trial was scheduled to commence, an unopposed jury demand was filed by counsel on behalf of Appellant. The case was transmitted to the Circuit Court for Caroline County. Appellant made several attempts to dismiss or remand the case to District Court based on lack of jurisdiction, premised on his view that the jury demand was not made on his behalf and that he had not been consulted by his counsel regarding the request. The circuit court observed that there was no mechanism to send a case back to the District Court in this situation, where a jury had been prayed and the case transferred. The court concluded that the circuit court had jurisdiction and denied Appellant's motions.

Appellant was tried before a jury in May of 2024. Throughout the trial, one of Appellant's theories of the case was that the Royal Farms employees mutually participated in a physical altercation and that they failed to retreat. During his cross-examination of one of these employees—Zachary Geibel—Appellant sought to elicit testimony demonstrating that Geibel was frustrated with Appellant and had a desire to engage in a physical altercation. Appellant asked Geibel, why he was frustrated after receiving a phone call to return to the store to deal with a customer who had a complaint. Geibel responded: "Honestly because you are a big problem in Denton. And I knew it was you right off the bat."

The jury returned a verdict, finding Appellant guilty of two counts of assault. The court ordered a pre-sentencing investigation. The State asserted that Appellant's prior convictions, in addition to his multiple probation violations, demonstrated that he was not amenable to treatment options. The State requested that the court sentence Appellant to ten years for each assault conviction, to run consecutively. Appellant's counsel argued for the court to impose a sentence of no more than eighteen months of incarceration, highlighting the lack of danger to the public, the minimal injuries in this case, and the benefits Appellant could reap from mental health treatment. Appellant offered allocution. Prior to imposing sentence, the court indicated that it considered the pre-sentence investigation, the circumstances of the case, Appellant, and the arguments of counsel and Appellant's allocution. After describing Appellant's criminal history and past unsuccessful incompletions of mental health treatment, the court observed that in this case, Appellant had punched two people over $6.00. The court then sentenced Appellant to ten years for each assault conviction, to run consecutively, observing that although the sentence exceeded the guidelines, it was the appropriate result based on based on Appellant's extensive history of assaultive behavior and his non-amenability to rehabilitation.

Appellant noted this timely appeal.

Held: Affirmed.

First, the Appellate Court held that the circuit court could not remand the case to the District Court after the circuit court's jurisdiction was invoked through a jury demand. The District Court is a court of limited jurisdiction and may exercise only those powers granted to it by statute. The statutory framework governing jurisdiction provides that the District Court is deprived of jurisdiction if a defendant is entitled to and demands a jury trial at any time prior to trial in the District Court. Here, Appellant was entitled to a jury trial, and his attorney demanded it on his behalf prior to the trial in the District Court. The statute does not grant jurisdiction to the District Court if a defendant, subsequent to demanding a jury trial and acquiring jurisdiction in the circuit court, later seeks to retract that demand. Moreover, Appellant's attorney acted with implied authority in demanding the jury trial on Appellant's behalf. Thus, the Court held that the circuit court did not err when it denied Appellant's motions to dismiss or remand, and that the circuit court properly exercised subject matter jurisdiction.

The Court next examined whether the evidence was sufficient to convict Appellant of two counts of second-degree assault. Appellant contended that the elements of assault were not met because the State did not provide evidence that the physical contact was objected to considering the Royal Farms employees' participation in the encounter. The Court noted that the evidence of the assaults consisted of the Royal Farms employees' testimonies and video surveillance footage documenting the event. The Court held that based on the evidence, a jury could reasonably have inferred that the Royal Farms employees did not consent to being struck by Appellant. Although Appellant contended an alternative version of events could support a different outcome, the Court held that the jury was not required to accept the version of facts most favorable to Appellant. The Court held that because the second-degree assault verdicts were supported by

substantial evidence in the record, there was sufficient evidence to sustain Appellant's convictions.

The Court next determined that the trial court did not abuse its discretion in admitting testimony from Geibel that Appellant was a "big problem in Denton." Evidence is relevant if it has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. A court has discretion to exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice. Here, part of Appellant's defense was that the Royal Farms employees were hostile towards him and consented to engaging physically with him. Appellant's question—in which he asked why Geibel was frustrated upon being called to return to the store—was relevant because it tended to make more probable that Geibel was frustrated with or hostile towards Appellant and thus willing to consent to physical engagement. Geibel's answer to that question—in which he stated that Appellant was "a big problem in Denton" and that Geibel knew the phone call was about Appellant "right off the bat"—was likewise relevant for the same reason. The Court held that the danger of unfair prejudice posed by Geibel's answer was minimal and did not outweigh the statement's probative value.

Next, the Court held that the circuit court did not abuse its discretion in sentencing Appellant. In conducting a review of a challenge to a sentence based on an allegation of improper considerations, appellate courts read the trial court's statements in the context of the entire sentencing proceeding to determine whether the trial court's statements could lead a reasonable person to infer that the trial court might have been motivated by an impermissible consideration. Here, the sentencing court's analysis reflected in the hearing transcript focused on the matters discussed in the pre-sentencing investigation report, Appellant's allocution, and the facts surrounding his present convictions. The Court held that the sentencing court relied on permissible considerations, based its decision on facts available in the record, and did not refer to the unproven allegations of conduct Appellant claims the court was prohibited from considering. Accordingly, viewed in the context of the entire sentencing proceeding, the Court was not convinced that the trial court's statements could lead a reasonable person to infer that the trial court may have been motivated by an impermissible consideration.

Finally, the Court considered Appellant's claim that his sentence was grossly disproportionate. Maryland appellate courts employ a two-step process in evaluating claims of gross disproportionality. A reviewing court must first determine whether the sentence appears to be grossly disproportionate. In so doing, the court should look to the seriousness of the conduct involved, the seriousness of any relevant past conduct, any articulated purpose supporting the sentence, and the importance of deferring to the General Assembly and to the sentencing court. If these considerations do not lead to a suggestion of gross disproportionality, the review is at an end. If the sentence does appear to be grossly disproportionate, the court should engage in a more detailed analysis. Here, Appellant's conduct in this case was serious, and he had a lengthy history of second-degree assault convictions as well as probation violations. The sentencing court articulated the basis for the sentence based on Appellant's capacity for rehabilitation. As these factors did not suggest gross disproportionality in Appellant's sentence, further review was not warranted.

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Cherlie Augustin v. David Duncan, et al., No. 1566, Sept. Term 2025, and No. 22, Sept. Term 2026, filed May 5, 2026. Opinion by Arthur, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1566s25.pdf

CHILD CUSTODY – CUSTODY DISPUTES BETWEEN NON-PARENTS

Facts:

On August 25, 2024, Crimea Baker and Sean Lange were killed at their home in Frederick County. At that time, four minor children were living with the decedents.

Ms. Baker is the mother of all four children. Mr. Lange is the father of the youngest child, who was seven months old at the time. David Turner, the father of the three older children, has been charged with murdering Ms. Baker and Mr. Lange.

Police initially placed all four children in the care of Jennifer Duncan, a close friend of Ms. Baker. Mr. Turner's mother, Ms. Baker's mother, and Ms. Duncan's parents each filed complaints for child custody. On August 30, 2024, the Circuit Court for Frederick County entered an emergency, ex parte order granting temporary custody of all four children to the Duncans.

Mr. Lange's sister, Cherlie Augustin, did not receive notice of the ex parte order. On October 13, 2024, Ms. Augustin and three other persons related to Mr. Lange moved to intervene in the custody case. The intervenors submitted a proposed pleading requesting visitation with the youngest child. The court issued an order stating that it would grant the motion to intervene if a paternity test confirmed that Mr. Lange was the father of the youngest child, which it soon did.

Ms. Augustin later secured new counsel and filed a complaint seeking custody of the youngest child or liberal visitation rights. The Duncans moved to dismiss Ms. Augustin's complaint or, in the alternative, for summary judgment. The Duncans argued that Ms. Augustin's claim for custody was defective because it failed to allege that the Duncans were unfit or that exceptional circumstances were present or that Ms. Augustin was a de facto parent. The circuit court issued an order dismissing Ms. Augustin as a party.

Ms. Augustin filed a notice of appeal within 30 days after the entry of the order dismissing her from the case. Ms. Augustin filed a second notice of appeal after the circuit court denied her motion to reconsider an order requiring her to pay a portion of the fees billed by the best interest attorney appointed for the children.

On February 18, 2026, the circuit court entered a final judgment granting sole legal custody and sole physical custody of all four children to the Duncans. Ms. Augustin appealed from the final judgment.

Held: Reversed.

The Appellate Court dismissed the appeal from the interlocutory order dismissing Ms. Augustin as a party and from the interlocutory order requiring Ms. Augustin to pay a portion of the fees billed by the best interest attorney. The interlocutory appeal became moot when the final judgment superseded the interlocutory orders. The interlocutory orders were still subject to review as part of the appeal from the final judgment.

The Appellate Court held that the circuit court erred when it granted the Duncans' motion to dismiss or, in the alternative, for summary judgment. To state a valid claim for custody, Ms. Augustin was not required to allege facts to support a finding that the Duncans were unfit or that exceptional circumstances were present. The framework requiring allegations of parental unfitness or exceptional circumstances applies in disputes between a third party and a biological parent. The Duncans, however, were not the child's biological parents or adoptive parents; they received custody through an emergency order entered on an ex parte basis. The presumption favoring parental custody does not apply in a dispute between parties who are not the child's parents.

As the child's nearest living relative, Ms. Augustin was entitled to an opportunity to pursue her claims for custody or visitation. Although Maryland has no special statute governing custody disputes when both parents are deceased, the guiding principle in this case, as in all custody cases, is the best interests of the child, determined in light of the factors set forth in section 9-201 of the Family Law Article of the Maryland Code.

The Court also rejected the Duncans' contention that Ms. Augustin could not amend her pleadings to request custody merely because her initial proposed pleading requested visitation only. This contention had no basis in Maryland law, under which amendments are freely allowed in the interest of justice.

The Appellate Court affirmed the order requiring Ms. Augustin to pay a portion of the fees billed by the best interest attorney for the children. Under the circumstances, the circuit court did not abuse its discretion when it divided the fees almost evenly between Ms. Augustin and three other parties.

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James Smith, Jr., et al. v. Upper Chesapeake Medical Center Inc., No. 927, September Term 2024, filed May 4, 2026. Opinion by Nazarian, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0927s24.pdf

CATASTROPHIC HEALTH EMERGENCY – STATUTORY IMMUNITY – HEALTHCARE PROVIDERS

Facts:

The appellant suffered a serious deep tissue injury while hospitalized in an intensive care unit during April and May 2020, shortly after Maryland Governor Lawrence Hogan, Jr. declared a statewide catastrophic health emergency in response to the global COVID 19 pandemic and pursuant to Md. Code (2003, 2022 Repl. Vol.), § 14 3A 06 of the Public Safety Article ("PS"). The injury disabled appellant permanently, and he and his wife sued appellee hospitals and health systems for negligence and loss of consortium. Appellees claimed immunity from civil liability where hospital had been operating under modified protocols pursuant to the Governor's emergency proclamation during appellant's hospitalization. The Circuit Court for Harford County entered summary judgment for appellees and appellants noted appeal, arguing that statutory immunity didn't apply because hospital hadn't treated appellant for COVID-19.

Held: Affirmed.

The Appellate Court of Maryland affirmed, holding that statutory immunity under PS § 14 3A 06 applies to care given by health care providers acting in good faith under a state declared emergency proclamation. The immunity afforded by PS § 14-3A-06 does not hinge on whether the healthcare provider treated a patient for an illness caused by the biological agent underlying the emergency proclamation. *See* PS § 14-3A-02. Rather, the General Assembly conditioned immunity for providers only on actions taken in good faith and in response to the emergency proclamation. And because hospital's deviations from the standard of care were grounded in policies or protocols that represented a good faith response to the emergency, hospital was immune from liability.

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Jacob Caples, et al. v. Sinai Hospital of Baltimore, Inc., et al., No. 1527, September Term 2024, filed May 1, 2026. Opinion by Ripken, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/1527s24.pdf

IMMUNITY – HEALTH – ACTS OF MENTAL HEALTH PATIENTS – DUTY OF PSYCHIATRIC PROFESSIONALS

Facts:

In November of 2021, Jeffrey Caples ("Caples") was hospitalized at Sinai Hospital of Baltimore, Inc. for a week for psychiatric treatment after he presented to the emergency room at a different hospital complaining of suicidal ideation. While at Sinai, Caples also experienced homicidal ideation. Notably, Caples twice failed to indicate on an assessment sheet provided by members of Sinai staff that he was *not* homicidal, and he twice vocalized a desire to kill "anyone who came close." In addition, Caples had episodes of aggression for which he had to be medicated. Sinai discharged Caples into the care of his wife, Kelly Ann Caples ("Decedent"), the same day as his last iteration of homicidal ideation, without warning her of Caples' homicidal ideation. Caples killed her eight days later. In April of 2024, the adult sons of Caples and Decedent, Jacob Caples and Benjamin Caples, as well as Decedent's father, Howard Fitzgerald, Jr. (collectively, "Appellants"), filed this wrongful death and survival action against the hospital and Ashley McKenzie, the nurse practitioner who discharged Caples (collectively, "Appellees"). Appellants asserted that Appellees' negligence led to Decedent's death.

Appellees filed a motion to dismiss, asserting that section 5-609 of the Courts and Judicial Proceedings Article ("CJP") to the Maryland Code provided them with immunity from suit, given that: 1) Caples' homicidal expressions did not identify a specified victim or group of victims; 2) Caples did not communicate an intention to inflict imminent physical injury; and 3) Caples did not demonstrate a propensity for violence.

The circuit court conducted a hearing in August of 2024 and subsequently dismissed the action in September of 2024. The court determined that CJP section 5-609 precluded the suit, given that Caples did not identify a specific victim or group of victims in his vocalized threats. Appellants noted this timely appeal.

Held: Reversed and remanded.

The Appellate Court of Maryland began by examining CJP section 5-609's statutory language, as well as the statutory interpretation as provided in *Falk v. Southern Maryland Hosp., Inc.*, 129 Md. App. 402 (1999), the sole reported case to interpret the statute. The Court noted that *Falk* established that a mental health provider can be held liable for the violent behavior of their

patients if 1) the provider had actual knowledge of the patient's propensity for violence, and 2) the patient indicated to the mental health professional in some manner that they intended to harm a specific victim. The Court then provided a case summary of *Falk* and the cases on which *Falk* relied, wherein the relevant courts determined that the mental health providers were not liable for the violent actions of their patients. The Court then distinguished the prior case law from the matter *sub judice*.

Specifically, the Court noted that here, unlike in *Falk*, Decedent was the direct recipient of the patient's, i.e., Caples', criminal conduct rather than an injured third party. The Court also noted that none of the patients in the previous cases—during interactions with their medical providers—indicated that they would commit the specific criminal conduct in which they later engaged, while Caples indicated his homicidal ideation. Last, the Court observed that Appellee knew whom Caples would interact with, unlike the prior cases where the patients either escaped or were released into the general public.

Here, the Court determined that Sinai had a duty to warn Decedent and an adult son who lived with Caples, as they were "readily identifiable" potential targets whose identities were known in advance of the harm inflicted. The Court established that—in addition to the statutory limitations—CJP section 5-609 immunity does not extend to mental health providers where 1) the provider could have readily identified the victim from interactions with the patient prior to the harm inflicted, and 2) the potential victim was in a foreseeable zone of danger.

Moreover, as to the underlying facts, the Court held that where a patient expresses an intent to kill or harm anyone in their proximity, the provider, at a minimum, must warn those to whom the patient is being discharged, as those individuals are ascertainable potential victims within a zone of danger. In so holding, the Court emphasized that its discussion of foreseeability is limited to a fact-dependent inquiry of whether, under the circumstances, the words or conduct of a patient under the care of a mental health provider readily identify a specified victim or group of victims, such that the provider has a duty to warn them of potential danger pursuant to CJP section 5-609.

Next, the Court considered whether Caples' homicidal statements communicated an intention to inflict imminent physical injury. The Court emphasized that when considering this issue at the motion to dismiss standard, consideration should be given to whether there is an allegation that—prospectively from the time the threat was made to the time the harm was ultimately inflicted—the harm inflicted was "ready to take place" or "happening soon." That considered, the Court determined that a jury could reasonably find that Caples' conduct demonstrated an intention to inflict physical injury.

Last, the Court assessed whether Caples' conduct demonstrated a propensity for violence. The Court determined that when considering this issue, courts should assess whether the patient demonstrated a natural inclination or preference for violence. In that regard, the Court concluded that a jury could reasonably find that Caples' conduct demonstrated a propensity for violence. Because Decedent was a "readily identifiable" potential victim and Caples demonstrated an intent to inflict imminent physical injury, as well as a propensity for violence, the Court vacated the grant of the motion to dismiss and remanded to the circuit court for further proceedings.

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Ashley Moore v. CVS Pharmacy. Inc., et al., No. 371, September Term 2025, filed May 29, 2026. Opinion by Arthur, J.

https://www.mdcourts.gov/data/opinions/cosa/2026/0371s25.pdf

PREMISES LIABILITY – FORESEEABLE NEGLIGENCE OF OTHER INVITEES

Facts:

On December 10, 2019, Ashley Moore was a customer at a CVS pharmacy store in Salisbury, Maryland. Another customer, Maria Belfort, attempted to park her vehicle in a parking space located near the entrance. Ms. Belfort failed to stop the vehicle in the parking space and crashed through the glass entrance doors. The vehicle struck Ms. Moore and injured her as she was walking out of the store.

There was no curb or elevation difference between the parking space and the customer walkway near the entrance. The parking space had no safety bollard in front of it to impede a vehicle. The parking space had only a wheel stop, approximately six inches high, designed to alert a driver if a vehicle reaches the edge of the parking space.

Ms. Moore raised negligence claims against Ms. Moore and claims for negligence and premises liability against CVS Pharmacy, Inc., and Maryland CVS Pharmacy, LLC. Ms. Moore claimed that CVS Pharmacy and Maryland CVS owned, operated, maintained, and managed the store. Ms. Moore claimed that CVS Pharmacy and Maryland CVS created an unsafe condition by keeping parking spaces near the entrance without bollards or other devices to protect customers from vehicles.

CVS Pharmacy moved for summary judgment, arguing that the evidence established that it did not own or operate the Salisbury CVS store. Maryland CVS moved for summary judgment, arguing that it did not have actual or constructive knowledge or notice of the alleged dangerous condition.

The Circuit Court for Wicomico County granted the summary judgment motions and directed the entry of final judgment as to CVS Pharmacy and Maryland CVS. Ms. Moore appealed.

Held: Reversed.

The Appellate Court of Maryland held that the circuit erred when it granted the motions for summary judgment. The Court concluded that there were genuine disputes of fact on the issues of whether the defendants had actual or constructive knowledge or notice of a dangerous condition and whether CVS Pharmacy operated, managed, or controlled the Salisbury CVS store.

In general, a store proprietor may have an obligation to use reasonable care to protect invitees against dangers caused by negligent acts of other invitees, as long as a reasonably prudent person should have anticipated the possible occurrence and the probable results of those acts. Where the evidence supports an inference that an invitee's injury arose at least in part from an unsafe condition on the store property, and that the class of harm that occurred was reasonably foreseeable to the store proprietor and reasonably could have prevented or guarded against, the issues of proximate cause and foreseeability are for the trier of fact to determine.

In this case, the store proprietor, Maryland CVS, was not entitled to summary judgment merely because the parking space had a wheel stop in front of it. The evidence did not compel a conclusion that a wheel stop was adequate to protect against the risk that a driver might fail to stop while attempting to park a vehicle.

Maryland CVS was not entitled to summary judgment merely because there was no evidence of prior incidents at the Salisbury CVS store or at certain other nearby stores. The plaintiff offered expert testimony from an engineer, who opined that the parking layout violated standard engineering principles by placing head-in parking spaces directed at the store entrance, without any bollard or other vehicle-stopping barrier. Based on the evidence, a factfinder could reasonably conclude that the store proprietor knew or should have known that the arrangement of the parking spaces and store entrance presented an unreasonable risk of harm to invitees.

Defendant CVS Pharmacy failed to show that it was entitled to summary judgment on the ground that it did not operate or control the Salisbury CVS store. Although CVS Pharmacy did not own or lease the store, it was undisputed that CVS Pharmacy performed certain management functions under an agency agreement with Maryland CVS. A supervisory employee of CVS Pharmacy testified that CVS Pharmacy's operation and management of the store included decisions about repairs and maintenance. Although another executive stated in an affidavit that CVS Pharmacy did not directly operate or control the store, CVS Pharmacy did not produce the agency agreement itself to provide the factual basis for that conclusion. The evidence generated a triable issue of fact concerning the extent of CVS Pharmacy's control over the store.

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ATTORNEY DISCIPLINE

REINSTATEMENTS

By Order of the Supreme Court of Maryland

RICHARD J. TAPPAN

has been replaced on the register of attorneys permitted to practice law in this State as of May 26, 2026.

*

DISBARMENTS/SUSPENSIONS/INACTIVE STATUS

By an Order of the Supreme Court of Maryland dated May 26, 2026, the following attorney has been suspended:

STEVE LARSON-JACKSON

*

By an Order of the Supreme Court of Maryland dated May 27, 2026, the following attorney has been suspended:

LOUIS BERNARDO ANTONACCI

*

By an Order of the Supreme Court of Maryland dated May 27, 2026, the following attorney has been disbarred by consent:

SUSAN WERNER SCOFIELD

*

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RESIGNATIONS

By its May 4, 2026, Order the Supreme Court of Maryland has accepted the resignation of the following attorney from the practice of law in this state:

MERRY LYNN ALBERT LYMN

*

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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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