

**IN THE  
SUPREME COURT OF MARYLAND**

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**SEPTEMBER TERM 2023**

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**No. 7**

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**ADNAN SYED**

**v.**

**YOUNG LEE, as Victim's Representative, et al.**

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**ON PETITION AND CROSS-PETITION FOR CERTIORARI  
FROM THE MARYLAND APPELLATE COURT**

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**BRIEF OF AMICUS CURIAE  
THE NATIONAL CRIME VICTIM LAW INSTITUTE.**

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## TABLE OF CONTENTS

STATEMENT OF THE CASE .....	1
STATEMENT OF FACTS .....	1
INTEREST OF THE AMICUS .....	1
STANDARD OF REVIEW .....	2
QUESTION PRESENTED .....	2
ARGUMENT .....	5
TO BE TREATED WITH DIGNITY IN VACATUR PROCEEDINGS REQUIRES REASONABLE NOTICE TO THE VICTIM AND THE OPPORTUNITY TO BE PRESENT AND MEANINGFULLY HEARD. ....	5
CONCLUSION .....	14
PERTINENT AUTHORITIES .....	15
CERTIFICATE OF SERVICE .....	21

## TABLE OF AUTHORITIES

### Cases

#### US Supreme Court Opinions

<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976) .....	8
<i>Jacobellis v. State of Ohio</i> , 378 U.S. 184 (1964) .....	10

#### Federal Court Opinions

<i>Carter v. Bigelow</i> , 869 F. Supp. 2d 1322 (D. Utah 2011).....	12
<i>Doe v. United States</i> , 666 F.2d 43 (4th Cir. 1981).....	11
<i>Pann v. Warren</i> , No. 5:08-CV-13806, 2010 WL 2836879 (E.D. Mich. July 19, 2010)...	11
<i>United States v. Ebbers</i> , 432 F.Supp. 3d 421 (S.D.N.Y. 2020) .....	11
<i>United States v. Kaufman</i> , No. CRIM.A.04-40141-01, 2005 WL 2648070 (D. Kan. Oct. 17, 2005) .....	11

#### Maryland Court Opinions

<i>Abrams v. Lamone</i> , 398 Md. 146 (2007).....	13
<i>Antoine v. State</i> , 245 Md. App. 521 (2020).....	12
<i>Cianos v. State</i> , 338 Md. 406 (1995).....	7
<i>Cunningham v. Feinberg</i> , 441 Md. 310 (2015).....	2
<i>Hoile v. State</i> , 404 Md. 591 (2008) .....	7
<i>Lee v. State</i> , 257 Md. App. 481, <i>reconsideration denied</i> (May 2, 2023), <i>cert. granted sub nom. Syed v. Lee</i> , 483 Md. 589 (2023) .....	3, 4, 10
<i>Mayor &amp; Town Council of Oakland v. Mayor &amp; Town Council of Mountain Lake Park</i> , 392 Md. 301 (2006) .....	13

#### Maryland Constitution

Article 47. Declaration of Rights.....	2, 5
--	------

#### Maryland Statutes and Rules

Md. Crim. Proc. Code Ann. § 11-103 .....	4, 12
Md. Crim. Proc. Code Ann. § 11-1002(b).....	2
MD Rule 1-331 .....	11
MD Rule 4-345 .....	11

#### Other Authorities

150 Cong. Rec. S4269 (Apr. 22, 2004) .....	7
Douglas E. Beloof, <i>Weighing Crime Victims’ Interests in Judicially Crafted Criminal Procedure</i> , 56 Cath. Univ. L. Rev. 1135 (2007) .....	8
Douglas E. Beloof, <i>Dignity, Equality, and Public Interest for Defendants and Crime Victims in Plea Bargains: A Response to Professor Michael O’Hear</i> , 91 Marq. L. Rev. 349 (2007).....	6

Duane Rudolph, <i>Dignity and the Promise of Conscience</i> , 71 Clev. St. L. Rev. 305 (2023)	6, 7
Jerry L. Marshaw, <i>The Supreme Court's Due Process Calculus for Administrative Adjudication in Matthews v. Eldridge: Three Factors in Search of a Theory of Value</i> , 44 U. Chi. L. Rev. 28 (1976)	7, 8
Jim Parsons and Tiffany Bergin, <i>The Impact of Criminal Justice Involvement on Victims' Mental Health</i> , 23 J. of Traumatic Stress 182 (April 2010)	9
Mary Margaret Giannini, <i>The Procreative Power of Dignity: Dignity's Evolution in the Victims' Rights Movement</i> , 9 Drex. L. Rev. 43 (2016)	6, 7, 8
Meg Garvin, <i>Victims and the Supreme Court's Eighth Amendment Jurisprudence in Miller v. Alabama: A Tale of a Constitutive Paradox for Victims</i> , 39 New Eng. J. on Crim. & Civ. Confinement 303 (2013)	6
Michael M. O'Hear, <i>Plea Bargaining and Victims: From Consultation to Guidelines</i> , 91 Marq. L. Rev. 323 (2007)	6

## **STATEMENT OF THE CASE**

Amicus curiae, the National Crime Victim Law Institute (NCVLI) adopts the Respondent's statement of the case.

Amicus files this brief after obtaining the parties' and the State's consent.

## **STATEMENT OF FACTS**

Amicus adopts the statement of facts referenced in proceedings below, 257 Md. App. 487, 492-511 (2023), as supplemented by citations to the Appellate Court Extract of Record (E.), where appropriate.

## **INTEREST OF THE AMICUS**

The National Crime Victim Law Institute (NCVLI) is a nonprofit educational and advocacy organization located at Lewis and Clark Law School, in Portland, Oregon. NCVLI's mission is to actively promote comprehensive and enforceable legal rights for crime victims and access to knowledgeable attorneys to help protect those rights in every case through victim-centered legal advocacy. NCVLI accomplishes its mission through training and education; providing legal technical assistance on cases nationwide; researching and analyzing developments in crime victim law; promoting the National Alliance of Victims' Rights Attorneys & Advocates; and participating as amicus curiae in select state, federal and military cases that present victims' rights issues of broad importance. This case will set precedent for how Maryland crime victims are to be treated when the conviction of the person who caused them harm is being considered for vacatur. It

will also aid lower courts' and practitioners' understanding of the constitutional right to be treated with dignity. Given the potential effect of this ruling on crime victim participation throughout the justice system, the outcome of this case is of significant importance to Maryland victims.

### **STANDARD OF REVIEW**

The facts of this case are not at issue, as such review of the trial court's application of law to the facts for legal error, and the lower court's interpretations of law "enjoy no presumption of correctness on review: the [reviewing] court must apply the law as it understands it to be." *Cunningham v. Feinberg*, 441 Md. 310, 322 (2015) (internal citations omitted).

### **QUESTION PRESENTED**

Whether the Victim's Representative's right to be treated with dignity under the Maryland Constitution was violated and must be remedied by law.

### **INTRODUCTION**

The Maryland Constitution contains a clear mandate – victims "shall be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process." Md. Const. Decl. of Rts. art. 47(a). *See also* Md. Crim. Proc. § 11-1002(b)(1) ("A victim of a crime, victim's representative, or

witness ... should be treated with dignity, respect, courtesy, and sensitivity”).<sup>1</sup> In this case the facts are also clear – for more than 20 years the State of Maryland assured the victim (the brother of a murder victim) that they would defend the conviction and protect the victim’s rights and interests throughout that process; that despite an apparent yearlong investigation of the integrity of the criminal investigation and prosecution at issue in this case, the State gave the victim only six days’ notice that they would no longer stand behind the conviction by filing a vacatur motion (E 73; E180); that only four days after this shocking news, the State then gave the victim, who was residing in another state, less than one business days’ notice of a vacatur hearing at which the changed position would become final; and that despite the victim’s modest request for a continuance of that proceeding, the Court proceeded and informed the victim that he needed to make a statement immediately. (E 137:23–38:2). The victim was then forced to leave work and get home to make an impact statement before the hearing’s end, without the opportunity for him or his counsel to be meaningfully heard on the merits of the proceeding. *Lee v. State*, 257 Md. App. 481, 502, *reconsideration denied* (May

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<sup>1</sup> Section 14, Chapter 10 of the Acts of 2001 provides that “the creation in the Act of separate definitions for the terms ‘victim’ and ‘victim’s representative’ from the broad definitions of ‘victim’ in the former law is intended for stylistic purposes only and does not narrow the meaning of the word ‘victim’; as used in Article 47 of the Constitution of Maryland.”

2, 2023), *cert. granted sub nom. Syed v. Lee*, 483 Md. 589 (2023) (detailing that the court provided a 30-minute recess so the victim could leave work and get home to join the hearing).

While courts and legal commentators may differ in the nuance of the definition of dignity, this Court need not struggle to formulate a definition because it is difficult to imagine a clearer example of the violation of the right than the blatant disregard for the victim in this case. And the disregard and undignified treatment continued. The State, with roughly a one-hour advance notice to the victim, entered a nolle prosequi of defendant’s vacated charges. The timing of the State’s dismissal—two days before the victim’s motion to stay was due – is hard to read as anything other than a calculated tactic to moot an appeal in which their treatment of the victim and the victim’s legal rights were at issue. *See Lee*, 257 Md. App. at 511 (detailing the timing of motion to stay and nolle prosequi).<sup>2</sup>

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<sup>2</sup> In footnote 10 of the Appellant/Cross Respondent’s brief, Appellant refers to the stay language of Article 47(c) as an “express prohibition” of a stay. The General Assembly has authorized an interlocutory appeal by a victim, “[t]he filing of an application for leave to appeal under this section does not stay other proceedings in a criminal or juvenile case unless all parties consent.” Md. Crim. Proc. Code Ann. § 11-103(c). When the General Assembly subsequently provided victims with the ability to appeal from a final order as was done in this case, the General Assembly did include the “unless all parties consent limitation” before a stay is in effect as it did for a leave to appeal. This omission makes sense as the staying of the case for an interlocutory appeal would interrupt trial and could inconvenience the parties, whereas staying proceedings following a final order would cause no such disruption to the defense or state’s case – and therefore no need for their consent. As such, upon the filing of the appeal by the victim representative in this case from a final order, the matter was stayed by statute.



To meaningfully inform and update the victim during the State's yearlong investigation would have been simple. To afford the victim enough notice for him to choose whether and how to be present at the hearing would have been simple. To acknowledge that the failure of the State to take these steps was an affront to the victim's dignity and postpone the hearing to redress this violation would have been simple. To allow the victim, personally and through counsel, to be heard regarding the impact of the merits of the proceeding before the court on his rights would have been simple. None of those steps were taken, however. This Court can now take a simple step to remedy these rights violations and provide the victim the dignity to which he is entitled: remand the case to the trial court to hold a new vacatur hearing with sufficient notice to the victim to ensure the victim can meaningfully exercise his rights at the proceeding.

## **ARGUMENT**

### **TO BE TREATED WITH DIGNITY IN VACATUR PROCEEDINGS REQUIRES REASONABLE NOTICE TO THE VICTIM AND THE OPPORTUNITY TO BE PRESENT AND MEANINGFULLY HEARD.**

The Maryland Constitution's mandate is clear: victims shall be treated with dignity. Md. Const. Decl. of Rts. art. 47(a) ("A victim of crime shall be treated by

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Consequently, the subsequent entry of a nolle prosequi was invalid because the matter was stayed before the nolle prosequi was entered.

agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process.”).<sup>3</sup> While state and federal courts define and apply the right to dignity in different ways, *see* Duane Rudolph, *Dignity and the Promise of Conscience*, 71 Clev. St. L. Rev. 305, 307-29 (2023) (discussing the history of dignity in American law); Mary Margaret Giannini, *The Procreative Power of Dignity: Dignity's Evolution in the Victims' Rights Movement*, 9 Drex. L. Rev. 43 (2016) (discussing the history and contemporary capacity of “dignity” as a right), the common thread is that dignity requires “honoring individuals and limiting the treatment of victims as a means to an end.” *Id.* at 66-67. In short, the right to dignity is the recognition of a person’s humanness – that they matter. *See* Rudolph, 71 Clev. St. L. Rev. at 308 (“The dignity of the human individual means that a human being is also to be respected, among other attributes, by virtue of that

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<sup>3</sup> The right to dignity has a long tradition in jurisprudence. *See* Meg Garvin, *Victims and the Supreme Court's Eighth Amendment Jurisprudence in Miller v. Alabama: A Tale of a Constitutive Paradox for Victims*, 39 New Eng. J. on Crim. & Civ. Confinement 303, 308-309 (2013) (discussing Supreme Court jurisprudence of the term and arguing that it should inform interpretation of victims’ positive right to dignity); Michael M. O’Hear, *Plea Bargaining and Victims: From Consultation to Guidelines*, 91 Marq. L. Rev. 323, 326, 331-32 (2007) (positing that victim participation in the plea process may further their dignity); Douglas E. Beloof, *Dignity, Equality, and Public Interest for Defendants and Crime Victims in Plea Bargains: A Response to Professor Michael O’Hear*, 91 Marq. L. Rev. 349, 349-50 (2007) (responding to Professor O’Hear’s discussion of dignity). Notably, however, the legal right to dignity is not novel in American jurisprudence; adopted in 1948, in the Universal Declaration of Human Rights provides: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and “[a]ll human beings are born free and equal in dignity and rights.”

individual's inalienable humanity."); *cf.* 150 Cong. Rec. S4269 (Apr. 22, 2004) (statement of Sen. Kyl) (explaining that the broad, substantive right to dignity in the federal Crime Victims' Rights Act, 8 U.S.C. 3771(a)(8), is "intended to direct government agencies and employees, whether they are in executive or judicial branches, to treat victims of crime with the respect they deserve).

Maryland's victims' rights, including the right to dignity, were passed in response to the concern that victims were "neglected by the criminal justice system in the processing of criminal cases," *Cianos v. State*, 338 Md. 406, 413 (1995), and the rights represent "the strong public policy that victims should have more rights and should be informed of the proceedings, that they should be treated fairly, and in certain cases, that they should be heard." *Hoile v. State*, 404 Md. 591, 605 (2008).

Preventing victims from meaningfully participating in proceedings that impact their very status as victims is an affront to the most basic notion of dignity. *See, e.g.,* Jerry L. Marshaw, *The Supreme Court's Due Process Calculus for Administrative Adjudication in Matthews v. Eldridge: Three Factors in Search of a Theory of Value*, 44 U. Chi. L. Rev. 28, 49–50 (1976) (explaining that depriving an individual of property or status without a hearing or opportunity to be heard must be justified "because a lack of personal participation causes alienation and a loss of that dignity and self-respect that society properly deems independently valuable.").

Indeed, the constitutional mandate to treat victims with dignity requires the State and courts to consider the victim's interests in the vacatur hearing and to comply with procedural due process before depriving victims of their interests.<sup>4</sup> *See Mathews v. Eldridge*, 424 U.S. 319, 332, 348 (1976) (“the essence of due process is the requirement that ‘a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it’” and “fundamental requirement of due process is the opportunity to be heard “at a meaningful time and in a meaningful manner”). *Cf.* Giannini, 71 Clev. St. L. Rev at 65-66 (concluding that “a very tangible way to treat victims with dignity and respect is to keep them informed, hear their views, and let them participate” and to ensure that “[c]rime victims are honored as autonomous beings, rather than utilitarian means to an end.”).

It cannot be denied that a crime victim is affected when, because of prior incompetence, malfeasance, or negligence, the State moves the court to vacate a conviction and erase the official, public recognition of the harm. *See* Douglas E. Beloof, *Weighing Crime Victims' Interests in Judicially Crafted Criminal*

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<sup>4</sup> Dignity and procedural due process are often discussed together as dignity may be viewed as the underpinning of procedural due process. *See, e.g.*, Jerry L. Marshaw, *The Supreme Court's Due Process Calculus for Administrative Adjudication in Mathews v. Eldridge: Three Factors in Search of a Theory of Value*, 44 U. Chi. L. Rev. 28, 49–50 (1976) (explaining that depriving an individual of property or status without a hearing or opportunity to be heard must be justified “because a lack of personal participation causes alienation and a loss of that dignity and self-respect that society properly deems independently valuable.”).

*Procedure*, 56 Cath. Univ. L. Rev. 1135, 1159 (2007) (“valida[tion] that [victims] were wronged comes from the conviction and sentencing of the criminal defendant.”).<sup>5</sup> In engaging in criminal justice, victims may have endured lengthy pretrial delays, been forced to testify in court in front of their offender, been made to reveal embarrassing details of their lives and victimization, and/or been forced to re-live painful events. It is well-known that this engagement can and does retraumatize victims. See Jim Parsons and Tiffany Bergin, *The Impact of Criminal Justice Involvement on Victims’ Mental Health*, 23 J. of Traumatic Stress 182 (April 2010) (“A number of studies suggest that contact with the justice system can lead to a ‘secondary victimization’ - where crime victims feel blamed by the justice system or experience other negative societal reactions as a consequence of their initial (primary) victimization.”). In addition, victims may have suffered years of anxiety waiting for decisions on direct appeal and post-conviction challenges to move through the courts. Once the defendant’s challenges to their conviction are over, victims acquire a reliance interest in the conviction and the many court decisions affirming that conviction. This reliance allows the victim a semblance of equanimity.

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<sup>5</sup> It seems uncontroverted that victims have a personal stake in the outcome of these proceedings. See, e.g., National Association of Criminal Defense Lawyers Amicus brief p. 4.

While vacating a conviction may be unavoidable, such as when the defendant is factually innocent, it strains credulity to argue or imply that such vacatur is anything less than a life-defining moment for the victim.<sup>6</sup> It is undeniable that the State and the trial court treated the victim in this case in a pro forma manner. Victims' rights laws were passed to prevent exactly what happened in this case – for the victim to be treated like an afterthought, and with complete disregard for their rights and interests. As noted above, this Court need not struggle to craft a definition of “dignity” because in this case the violation of the right is obvious. Just as Justice Stewart’s “I know it when I see it” reasoning allowed him to resolve the issue before the United States Supreme Court without attempting to define what material fits within the definition of pornography, *Jacobellis v. State of Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring), this Court need not define Maryland’s victims’ right to dignity to reach a conclusion in this case, because this is not a complex case.

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<sup>6</sup> Indeed, the Appellate Court recognized reality in this case, noting “[w]e share many of Mr. Lee’s concerns about how the proceedings were conducted.” *Lee v. State*, 257 Md. App. 481, 512. (2023).

The victim’s right to be treated with dignity requires victims be given meaningful notice, presence, and opportunity to be heard prior to vacating a defendant’s conviction.<sup>7</sup> This was not done.

This Court would not be the first to recognize that a victim’s right to dignity must be afforded. *See, e.g., United States v. Kaufman*, No. CRIM.A. 04-40141-01, 2005 WL 2648070 (D. Kan. Oct. 17, 2005) (restricting media access to court proceedings under the federal Crime Victims’ Rights Act right to be treated with “dignity,” and noting that there is a compelling government interest in protecting the dignity of persons.”). Indeed, other courts have provided victims with dignity in other post-conviction challenges by considering their legal positions on issues. *See also Pann v. Warren*, No. 5:08-CV-13806, 2010 WL 2836879, at \*4 (E.D. Mich. July 19, 2010) (concluding that precluding crime victims from submitting documents to the court in support of their right to be heard in a habeas proceeding

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<sup>7</sup> Notably, the right to be heard extends beyond victims telling their stories in open court. *See, e.g., United States v. Ebberts*, 432 F.Supp. 3d 421, 426 (S.D.N.Y. 2020) (finding that Congress passed the CVRA to guarantee victims some involvement in the criminal case that “extends beyond victims telling their stories in open court”); *Doe v. United States*, 666 F.2d 43, 46 (4th Cir. 1981) (noting “No other party in the evidentiary proceeding shares these interests to the extent that they might be viewed as a champion of the victim’s rights.”). Maryland Rules also support that victims may be heard on legal issues involving correcting or vacating sentences. *See* MD Rule 4-345(f) (The court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim’s representative who requests an opportunity to be heard.) Further, victims may be heard through counsel. *See* MD Rule 1-331(providing that an attorney may perform any act required or permitted by these rules to be performed by that party.).

would effectively preclude them from being heard at all in most cases); *Carter v. Bigelow*, 869 F. Supp. 2d 1322, 1327 (D. Utah 2011) (noting, after having received pleadings and arguments from the victim’s representative, that it is a court’s responsibility to consider and weigh victims’ rights), *rev’d on other grounds*, *Carter v. Bigelow*, 787 F.3d 1269 (10th Cir. 2015).

This Court has an obligation to ensure that the victim’s rights are afforded. *See* Md. Crim. Proc. Code Ann. § 11-103 (e)(1),(2) (“In any court proceeding involving a crime against a victim, the court shall ensure that the victim is in fact afforded the rights provided to victims by law.”

Significantly, since double jeopardy is not implicated by reinstatement of a conviction after it is vacated and remanded for a new vacatur hearing, this Court must do so. *Id.* at (e)(2) (“If a court finds that a victim's right was not considered or was denied, the court may grant the victim relief provided the remedy does not violate the constitutional right of a defendant or child respondent to be free from double jeopardy.”). *See also Antoine v. State*, 245 Md. App. 521, 557–58 (2020) (noting that “[b]y referring solely to the ‘constitutional’ protection against double jeopardy, the General Assembly acted consistently with an intent to allow protection for victims' rights to the maximum extent compatible with the federal Constitution”).



Maryland law directs this Court to ensure that victim's rights are not unfilled promises, ignored without consequence, but rather that they are enforceable rights. Victims must be appropriately informed, present, and heard and treated with the dignity they deserve. As the Constitution provides an unambiguous right to dignity, the language must be interpreted to have meaning and to avoid rendering the Constitutional rights or any portion of the rights, meaningless, surplusage, superfluous or nugatory. *See, Mayor & Town Council of Oakland v. Mayor & Town Council of Mountain Lake Park*, 392 Md. 301, 316–17 (2006) (noting statutes must be interpreted “so that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory”); *Abrams v. Lamone*, 398 Md. 146, 172 (2007) (“The general tenets of constitutional interpretation are well settled and frequently stated. ‘Generally speaking, the same rules that are applicable to the construction of statutory language are employed in interpreting constitutional verbiage[.]’”).

For the reasons explained above, this Court must remand the case to the trial court for a new vacatur hearing with an order to comport with the victim's right to be treated with dignity by providing reasonable notice, the opportunity to be personally present, and be meaningfully heard including by counsel.

## CONCLUSION

Maryland Constitution mandates victims be treated with dignity in all criminal justice proceedings. In this case, the egregious treatment of the victim clearly violated this right. Maryland law requires a remedy for victims' rights violations if it does not place the defendant in constitutional double jeopardy. Re-doing a vacatur hearing will not violate defendant's constitutional right. Therefore, this Court must vacate the court's order vacating the conviction and remand for a new vacatur hearing so that the victim has reasonable notice, an opportunity to be personally present, and be meaningfully heard including by counsel.

Respectfully submitted,

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**CERTIFICATION OF WORD COUNT AND COMPLIANCE  
WITH THE MARYLAND RULES**

1. This brief contains 6484 words, including the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font; spacing, and type size requirements stated in Rule 8-112.

/s/ Russell Butler  
Russell P. Butler, Esq.

**PERTINENT AUTHORITIES**

**Md. Constitution, Declaration of Rights, Art. 47**

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

(b) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms “crime”, “criminal justice proceeding”, and “victim” are specified by law.

(c) Nothing in this Article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

**Md. Crim. Proc. Code Ann. § 11-103**

(a)(1) In this section, “crime” means:

(i) a crime;

(ii) a delinquent act that would be a crime if committed by an adult; or

(iii) except as provided in paragraph (2) of this subsection, a crime or delinquent act involving, causing, or resulting in death or serious bodily injury.

(2) “Crime” does not include an offense under the Maryland Vehicle Law<sup>1</sup> or under Title 8, Subtitle 7 of the Natural Resources Article unless the offense is punishable by imprisonment.

#### Appeals

(b) Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may file an application for leave to appeal to the Court of Special Appeals from an interlocutory order or appeal to the Court of Special Appeals from a final order that denies or fails to consider a right secured to the victim by subsection (e)(4) of this section, § 4-202 of this article, § 11-102 or § 11-104 of this subtitle, § 11-302, § 11-402, § 11-403, or § 11-603 of this title, § 3-8A-06, § 3-8A-13, or § 3-8A-19 of the Courts Article, or § 6-112 of the Correctional Services Article.

#### Stay of other proceedings in criminal or juvenile case

(c) The filing of an application for leave to appeal under this section does not stay other proceedings in a criminal or juvenile case unless all parties consent.

#### Representation of victim who has died or is disabled

(d)(1) For purposes of this section, a victim's representative, including the victim's spouse or surviving spouse, parent or legal guardian, child, or sibling, may represent a victim of a crime who dies or is disabled.

(2) If there is a dispute over who shall be the victim's representative, the court shall designate the victim's representative.

#### Rights of victim

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

(2) If a court finds that a victim's right was not considered or was denied, the court may grant the victim relief provided the remedy does not violate the constitutional right of a defendant or child respondent to be free from double jeopardy.

(3) A court may not provide a remedy that modifies a sentence of incarceration of a defendant or a commitment of a child respondent unless the victim requests relief from a violation of the victim's right within 30 days of the alleged violation.

(4)(i) A victim who alleges that the victim's right to restitution under § 11-603 of this title was not considered or was improperly denied may file a motion requesting relief within 30 days of the denial or alleged failure to consider.

(ii) If the court finds that the victim's right to restitution under § 11-603 of this title was not considered or was improperly denied, the court may enter a judgment of restitution.

**Md. Crim. Proc. Code Ann. § 11-1002(b)**

Information about guidelines

(a) The appropriate criminal justice unit should inform a victim of a crime, a victim's representative, or a witness of the guidelines listed in subsection (b) of this section.

Guidelines for treatment of crime victims, victim's representatives, or witnesses

(b) A victim of a crime, victim's representative, or witness:

(1) should be treated with dignity, respect, courtesy, and sensitivity;

(2) should receive crisis intervention help, if needed, or be told by the appropriate criminal justice unit where crisis intervention help, emergency medical treatment, creditor intercession services, or other social services and counseling may be obtained;

(3) should be notified in advance of dates and times of trial court proceedings in the case and, on written request, of postsentencing proceedings, and be notified if the court proceedings to which the victim of a crime, victim's representative, or witness has been subpoenaed will not proceed as scheduled;

(4) should be told of the protection available, and, on request, be protected by a criminal justice unit, to the extent reasonable, practicable, and, in the unit's discretion, necessary, from harm or threats of harm arising out of the crime victim's or witness's cooperation with law enforcement and prosecution efforts;

(5) during each phase of the investigative or court proceedings, should be provided, to the extent practicable, with a waiting area that is separate from a suspect and the family and friends of a suspect;

(6) should be told by the appropriate criminal justice unit of financial assistance, criminal injuries compensation, and any other social services available to the victim of a crime or victim's representative and receive help or information on how to apply for services;

(7) should be told of and, on request, should be given employer intercession services, when appropriate, by the State's Attorney's office or other available resource to seek employer cooperation in minimizing an employee's loss of pay or other benefits resulting from participation in the criminal justice process;

(8) on written request, should be kept reasonably informed by the police or the State's Attorney of the arrest of a suspect and closing of the case, and should be told which office to contact for information about the case;

(9) should be told of the right to have stolen or other property promptly returned and, on written request, should have the property promptly returned by a law enforcement unit when evidentiary requirements for prosecution can be satisfied by other means, unless there is a compelling law enforcement reason for keeping it;

(10) for a crime of violence, on written request, should be kept informed by pretrial release personnel, the State's Attorney, or the Attorney General, as appropriate, of each proceeding that affects the crime victim's interest, including:

(i) bail hearing;

(ii) dismissal;

(iii) nolle prosequi;

(iv) setting of charges;

(v) trial; and

(vi) disposition;

(11) on request of the State's Attorney and in the discretion of the court, should be allowed to address the court or jury or have a victim impact statement read by the court or jury at:

(i) sentencing before the imposition of the sentence; or

(ii) any hearing to consider altering the sentence;

(12) should be told, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, should be helped to prepare the request and should be given advice as to the collection of the payment of any restitution awarded;

(13) should be entitled to a speedy disposition of the case to minimize the length of time the person must endure responsibility and stress in connection with the case;

(14) on written request to the parole authority, should be told each time there is to be a hearing on provisional release from custody and each time the criminal will receive a provisional release;

(15) on written request to the Patuxent Institution, Division of Correction, or Parole Commission, as appropriate, should have a victim impact statement read at a hearing to consider temporary leave status or a provisional release; and

(16) on written request to the unit that has custody of the offender after sentencing, should be told by the unit whenever the criminal escapes or receives a mandatory supervision release.

Guidelines made available to criminal justice units

(c)(1) The Department shall make the guidelines in subsection (b) of this section available to the units involved with carrying out the guidelines.

(2) To the extent feasible, the guidelines in subsection (b) of this section shall be printed by Maryland Correctional Enterprises.

Private room for victim to report information about crimes against the person

(d)(1) In this subsection, “law enforcement agency” has the meaning stated in § 3-201 of the Public Safety Article.

(2) Each law enforcement agency shall:

(i) display a poster developed by the State Board of Victim Services that informs a victim of the right to request a private room to report information related to a crime under Title 3 of the Criminal Law Article; and

(ii) provide, on request, a private room to a victim to report information related to a crime under Title 3 of the Criminal Law Article.

**Md. Rule 1-331.**

Unless otherwise expressly provided and when permitted by law, a party's attorney may perform any act required or permitted by these rules to be performed by that party. When any notice is to be given by or to a party, the notice may be given by or to the attorney for that party.

**Md. Rule 4-345.**

(a) Illegal Sentence. The court may correct an illegal sentence at any time.

(b) Fraud, Mistake, or Irregularity. The court has revisory power over a sentence in case of fraud, mistake, or irregularity.

(c) Correction of Mistake in Announcement. The court may correct an evident mistake in the announcement of a sentence if the correction is made on the record before the defendant leaves the courtroom following the sentencing proceeding.

Cross reference: See *State v. Brown*, 464 Md. 237 (2019), concerning an evident mistake in the announcement of a sentence.

(d) Desertion and Non-Support Cases. At any time before expiration of the sentence in a case involving desertion and non-support of spouse, children, or destitute parents, the court may modify, reduce, or vacate the sentence or place the defendant on probation under the terms and conditions the court imposes.

(e) Modification Upon Motion.

(1) Generally. Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.

Cross reference: Rule 7-112 (b).

Committee note: The court at any time may commit a defendant who is found to have a drug or alcohol dependency to a treatment program in the Maryland Department of Health if the defendant voluntarily agrees to participate in the treatment, even if the defendant did not timely file a motion for modification or timely filed a motion for modification that was denied. See Code, Health--General Article, § 8-507.

(2) Notice to Victims. The State's Attorney shall give notice to each victim and victim's representative who has filed a Crime Victim Notification Request form pursuant to Code, Criminal Procedure Article, § 11-104 or who has submitted a written request to the State's Attorney to be notified of subsequent proceedings as provided under Code, Criminal Procedure Article, § 11-503 that states (A) that a motion to modify or reduce a sentence has been filed; (B) that the motion has been denied without a hearing or the date, time, and location of the hearing; and (C) if a hearing is to be held, that each victim or victim's representative may attend and testify.

(3) Inquiry by Court. Before considering a motion under this Rule, the court shall inquire if a victim or victim's representative is present. If one is present, the court shall allow the victim or victim's representative to be heard as allowed by law. If a victim or victim's



representative is not present and the case is one in which there was a victim, the court shall inquire of the State's Attorney on the record regarding any justification for the victim or victim's representative not being present, as set forth in Code, Criminal Procedure Article, § 11-403(e). If no justification is asserted or the court is not satisfied by an asserted justification, the court may postpone the hearing.

(f) Open Court Hearing. The court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim's representative who requests an opportunity to be heard. The defendant may waive the right to be present at the hearing. No hearing shall be held on a motion to modify or reduce the sentence until the court determines that the notice requirements in subsection (e)(2) of this Rule have been satisfied. If the court grants the motion, the court ordinarily shall prepare and file or dictate into the record a statement setting forth the reasons on which the ruling is based.

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 28<sup>th</sup> day of August, 2023, electronic copies of the foregoing Brief of Amicus Curiae, The National Crime Victim Law Institute, were filed and served via the MDEC system and also sent separately by electronic means to the below counsel with their prior consent in lieu of two paper copies to:

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