

Circuit Courts for Prince George's County and Charles County  
Case Nos. C-16-CV-23-002201 and 08-K-11-000005

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 2165, September Term, 2023

and

No. 202, September Term, 2024

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DAVID STRICKLAND

v.

STATE OF MARYLAND and CAROLYN J.  
SCRUGGS

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Berger,  
Nazarian,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Sharer, J.

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Filed: June 3, 2025

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In 2012, David Strickland, appellant, was convicted in the Circuit Court for Charles County of second-degree assault. Strickland was subsequently found not criminally responsible (“NCR”) and civilly committed to the Maryland Department of Health (“MDH”) for inpatient treatment at Clifton T. Perkins Hospital (“Perkins”).

In 2017, Strickland was conditionally released from his civil commitment for a period of five years. In 2020, while on conditional release, Strickland was arrested and charged, in the Circuit Court for Prince George’s County, with second-degree murder.<sup>1</sup> Shortly thereafter, the Circuit Court for Charles County issued a hospital warrant pursuant to § 3-121 of the Criminal Procedure Article (“CP”) of the Maryland Code, which sets forth the procedures a court must follow when an individual on conditional release is alleged to have violated the terms of release. The hospital warrant was never served.

In 2022, Strickland pleaded guilty, in Prince George’s County, to second-degree murder and was sentenced to a term of twenty years’ imprisonment. Strickland was thereafter transported to the Department of Corrections (“DOC”), where he remained.

In 2023, MDH filed, in Charles County, a motion asking that Strickland be discharged from his civil commitment. Strickland next filed a motion asking that his outstanding hospital warrant be served and that he be transported to MDH for evaluation. Both motions were denied, and Strickland noted an appeal.

While his case in Charles County was pending, Strickland filed, in Prince George’s County, a petition for writ of habeas corpus, alleging that, because he had not been released

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<sup>1</sup> All the trial court proceedings in these consolidated appeals occurred in the circuit courts for Charles County and Prince George’s County respectively.

from his civil commitment in Charles County, his detention in the DOC was unlawful. The petition was ultimately denied, and Strickland noted an appeal. This Court later consolidated Strickland’s two appeals.

In this consolidated appeal, Strickland presents two questions for our review:

1. Where (1) an individual is found guilty but NCR and is committed to MDH, (2) while on conditional release in that case the individual commits a new offense and is convicted of that offense and sentenced to a term of imprisonment in the DOC, and (3) the trial court in the first case refuses to discharge the individual from the NCR commitment so that the commitment to MDH remains in effect, should the individual be confined in an MDH facility . . . or in the DOC?
2. Regardless of where such an individual should be confined, did the Circuit Court for Charles County err in refusing to order the Charles County Sheriff’s Office to serve the hospital warrant on Mr. Strickland and transport him to Perkins for evaluation?

For reasons to follow, we hold that the Circuit Court for Charles County erred in failing to execute the hospital warrant pursuant to CP § 3-121. Accordingly, we remand the case to that court with instructions that the hospital warrant be executed, that Strickland be taken into custody of MDH, held securely, and that the court follow the procedures set out in CP § 3-121.<sup>2</sup> Because we remand on that issue, we need not address any other issues raised by Strickland.

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<sup>2</sup> Nothing in this opinion and/or orders of this Court are to be construed as a revision, in any form, of the sentence now being served by Strickland in the Division of Correction as a result of the Prince George’s County murder conviction. Appellant’s future detention shall be left to the circuit court and appropriate administrative agencies.

## **BACKGROUND**

### ***Relevant Law***<sup>3</sup>

“A defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to: (1) appreciate the criminality of that conduct; or (2) conform that conduct to the requirements of law.” CP § 3-109(a). “The defendant has the burden to establish, by a preponderance of the evidence, the defense of not criminally responsible.” CP § 3-110(b).

If, following an NCR plea, the factfinder determines beyond a reasonable doubt that the defendant committed the criminal conduct, the factfinder must then determine “whether the defendant has established, by a preponderance of the evidence, that the defendant was at the time criminally responsible or not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title.” CP § 3-110(c). If the factfinder determines that the defendant was NCR, then the court may order the defendant released, but only if, among other things, MDH submits a report indicating that the defendant would not be a danger to himself or the person or property of others. CP § 3-112(c). Otherwise, “the court immediately shall commit the defendant to the Health Department for institutional inpatient care or treatment.” CP § 3-112(a).

Upon being committed to MDH, a person may be eligible for “conditional release,” but “only if that person would not be a danger, as a result of mental disorder or mental retardation, to self or to the person or property of others if released from confinement with

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<sup>3</sup> All statutory language and citations are derived from the Maryland Code in effect at the relevant times.

conditions imposed by the court.” CP § 3-114(c). The committed person has the burden of establishing by a preponderance of the evidence his or her eligibility for conditional release. CP § 3-114(d).

Following a conditional release, “[i]f the State’s Attorney receives a report that alleges that a committed person has violated a condition of a conditional release, . . . the State’s Attorney shall determine whether there is a factual basis for the complaint.” CP § 3-121(a)(1). “If the State’s Attorney determines that there is a factual basis to believe that the committed person has violated the terms of a conditional release and believes further action by the court is necessary, the State’s Attorney promptly shall . . . file with the court a petition for revocation or modification of conditional release[.]” CP § 3-121(a)(3)(ii). If, upon reviewing that petition, the court “determines that there is probable cause to believe that the committed person has violated a conditional release, the court promptly shall . . . issue a hospital warrant for the committed person and direct that on execution the committed person shall be transported to the facility designated by the Health Department[.]” CP § 3-121(e)(1). A “hospital warrant” is a legal document that “authorizes any law enforcement officer in the State to apprehend a person who is alleged to have violated an order for conditional release and transport the person to a facility designated by the Health Department[.]” CP § 3-101(e)(1).

“Within 10 days after the committed person is returned to the Health Department in accordance with the hospital warrant,” the Office of Administrative Hearings (the “Office”) “shall hold a hearing unless: (1) the hearing is postponed or waived by agreement of the parties; or (2) the Office postpones the hearing for good cause shown.” CP § 3-

121(f). At that hearing, “the Office shall find: (i) whether, by a preponderance of the evidence, the State has proved that the committed person violated conditional release; and (ii) whether, by a preponderance of the evidence, the committed person nevertheless has proved eligibility for conditional release.” CP § 3-121(g)(3). Upon making those findings, “[t]he Office promptly shall . . . send a report of the hearing and determination to the court[.]” CP § 3-121(h)(1)(i). After considering the report, the evidence, and any exceptions filed, within ten days after receiving the report,

the court shall: (1) revoke the conditional release and order the committed person returned to the facility designated by the Health Department; (2) modify the conditional release as required by the evidence; (3) continue the present conditions of release; or (4) extend the conditional release by an additional term of 5 years.

CP § 3-121(i). The committed person may then appeal that decision “by application for leave to appeal to the Appellate Court of Maryland.” CP § 3-121(k)(2).

***Strickland Convicted of Second-Degree Assault in Charles County, Committed to MDH, and Conditionally Released***

In 2012, Strickland pleaded guilty, in Charles County, to second-degree assault. He was determined to be NCR and was committed to MDH for inpatient care and treatment at Perkins.

In 2017, Strickland was conditionally released from his commitment for a period of five years. The conditions of Strickland’s release included that he reside in “a 24/7 intensive level residential rehabilitation program or in other housing approved by the Department.”

***Strickland Arrested and Charged in Prince George’s County***

On May 3, 2020, while Strickland was on conditional release, the police responded to Strickland’s home in Prince George’s County upon receiving a report that Strickland had gotten into a fight with his caretaker. Upon arriving at the home, the police found Strickland standing over his caretaker holding a knife while the caretaker lay on the ground “in a pool of blood.” The caretaker was later pronounced dead. Strickland was taken into custody and detained in Prince George’s County. Strickland was later charged, in Prince George’s County, with second-degree murder.

***Charles County Circuit Court Issues Hospital Warrant***

On May 4, 2020, the State’s Attorney for Charles County filed a request for a hospital warrant. Citing the pending charges in Prince George’s County, the State’s Attorney alleged that Strickland had violated the terms of his conditional release and was a danger to the community.

On May 14, 2020, the Circuit Court for Charles County issued a hospital warrant pursuant to CP § 3-121. The warrant provided that the court had determined probable cause existed that Strickland had violated his conditional release. The warrant directed “any peace officer” to “apprehend and transport [Strickland] upon his release from the Prince George’s County Detention Center to the Clifton T. Perkins Hospital Center . . . to await further proceedings.” The hospital warrant was not executed.

***Strickland Pleads Guilty to Second-Degree Murder in Prince George’s County and Is Detained in the DOC***

On May 24, 2022, Strickland pleaded guilty, in the Prince George’s County circuit court, to second-degree murder. The court sentenced Strickland to a term of twenty years’ imprisonment, and Strickland was transported to the DOC to serve his sentence. Since that time, Strickland has remained confined in the DOC, and the hospital warrant issued in Charles County has remained outstanding.

***Strickland Files for Relief in Charles County and Prince George’s County***

In December 2022, Strickland filed, in Charles County, a motion asking that he be transferred to Perkins pursuant to the outstanding hospital warrant. On April 20, 2023, the court held a hearing, and it was determined that Strickland would file for habeas corpus relief in Prince George’s County. No further action was taken on the hospital warrant at that hearing.

On May 11, 2023, Strickland filed, in Prince George’s County, a Petition for Writ of Habeas Corpus. Strickland alleged, among other things, that his commitment to MDH, which was still in effect, preceded and superseded his commitment to the DOC. Strickland argued that he should be transported to Perkins pursuant to the outstanding hospital warrant.

***MDH Files Petition for Discharge in Charles County, and Strickland Opposes the Petition and Requests that Charles County Execute the Outstanding Hospital Warrant***

On September 5, 2023, MDH filed, in Charles County, a petition asking that Strickland be discharged from his conditional release. MDH argued that “any dangerousness that could be attributed to [Strickland’s] mental illness is mitigated by his



current and foreseeable incarceration.” MDH also argued that Strickland “would not be eligible for conditional release . . . in the foreseeable future.”

Strickland opposed MDH’s petition. He maintained that he was “only in the [DOC] because this [c]ourt’s hospital warrant was ignored by DOC, Prince George’s County, or both[.]” Strickland argued that, because he had not been evaluated by MDH since his conditional release, MDH had “no idea” whether he met the criteria for discharge.

On November 1, 2023, a hearing was held in the Circuit Court for Charles County on MDH’s petition. At that hearing, Strickland argued that MDH’s petition was premature because he had not been evaluated by MDH, which would have happened had the hospital warrant been properly executed. Strickland argued that the appropriate course of action was for the court to serve the warrant and follow the procedures set forth in CP § 3-121.

In the end, the court denied MDH’s petition and found that discharging Strickland from his commitment was not “the appropriate remedy in this case at this time.” Regarding the hospital warrant, the court stated that it was “not withdrawing the warrant” or “directing anybody to take any action they wouldn’t take in the normal course of business.”

On December 27, 2023, Strickland filed a “Motion to Serve Warrant,” in which he again requested that the court execute the hospital warrant. On December 29, 2023, the court denied the motion without explanation. Strickland thereafter noted an appeal to this Court.

***Prince George’s County Circuit Court Denies Strickland’s Petition for Habeas Relief***

On April 1, 2024, Strickland’s petition for writ of habeas corpus, pending in Prince George’s County, was denied. In view of our holding on Strickland’s challenge to the

circuit court’s rulings on the CP § 3-121 issues, we dismiss his appeal from denial of habeas corpus relief as moot.

Strickland thereafter noted an appeal to this Court. On June 12, 2024, this Court consolidated Strickland’s two pending appeals into the instant appeal.

## **MOTION TO DISMISS**

### **Circuit Court for Charles County**

The State has moved to dismiss Strickland’s appeal of the circuit court’s denial of his “Motion to Serve Warrant.” The State contends that the court’s denial of Strickland’s motion was not an appealable order because the motion was “a freestanding request for relief, without a procedural foothold or a doctrinal foundation” and because “it was not filed during an ongoing proceeding, such as a trial.” Citing *Fuller v. State*, 397 Md. 372 (2007), the State argues that, because there is no limit to the number of times Strickland can ask the court to serve the hospital warrant, the court’s denial of his motion was not an appealable final order.

We reject the State’s arguments and deny its motion to dismiss. Regardless of whether Strickland’s “Motion to Serve Warrant” was, on its face, based on a specific procedural foothold or doctrinal foundation, the fact remains that Strickland’s primary claim for relief in that motion, i.e., that the circuit court follow the procedures set forth in CP § 3-121, was the catalyst for the proceedings that followed. Strickland persisted in seeking that relief throughout the proceedings, including at the hearing on MDH’s petition to discharge him from his NCR commitment. When the court refused to take any action on his request, Strickland filed his “Motion to Serve Warrant,” which the court subsequently

denied. That decision by the court constituted an appealable final order, as it settled the rights of the parties and unequivocally denied Strickland the relief he sought. *See Causion v. State*, 209 Md. App. 391, 399 (2013) (“[W]hether an order is a final judgment, and thus appealable, does not depend on the grounds on which the order is based but rather upon the order’s effect upon the rights of the parties or their ability to obtain the relief they seek.”). That Strickland could, theoretically, file a subsequent motion seeking similar relief does not preclude him from appealing the instant order. *See id.* at 398-402 (distinguishing *Fuller* as “the exception, not the rule” and noting that, “as principles such as law of the case and claim and issue preclusion suggest, it is the policy of the State that courts should provide a final resolution to justiciable issues in a single proceeding”).

## **DISCUSSION**

### ***Parties’ Contentions***

Strickland argues that his confinement in the DOC was improper and that he should have been transported to Perkins or another MDH facility. Strickland contends that where, as here, a committed person commits a new offense while on conditional release from an NCR commitment and that person is never discharged from the NCR commitment, the person remains committed to MDH and must be confined in an MDH facility and not in the DOC. Strickland further argues that, regardless of where he should be confined, the court erred in refusing to execute the hospital warrant and transport him to MDH for evaluation. Strickland contends that prompt execution of the hospital warrant and prompt commitment to MDH are required pursuant to CP § 3-121.

The State argues that CP § 3-121 does not dictate that he be transferred to MDH from his current confinement in the DOC. The State argues that, absent such a statutory mandate, the court did not err or abuse its discretion in denying Strickland’s motion.

As discussed in greater detail below, we hold that the circuit court erred in failing to require the execution of the hospital warrant pursuant to CP § 3-121. We therefore shall remand the case to that court with instructions that the court cause the execution of the hospital warrant, take Strickland into the custody of MDH, and follow the procedures set out in CP § 3-121. Because we remand on that issue, we need not address any other issues.

### ***Standard of Review***

“A trial court’s interpretation and application of Maryland statutory law is reviewed for legal correctness under a *de novo* standard.” *In re Special Investigation Misc. 1064*, 478 Md. 528, 545 (2021). “When interpreting statutes, we seek to ascertain and implement the will of the Legislature.” *Harrison-Solomon v. State*, 442 Md. 254, 265 (2015). “To ascertain the intent of the General Assembly, we begin with the normal, plain meaning of the statute.” *Merchant v. State*, 448 Md. 75, 94 (2016) (citations omitted). “If the language of the statute is unambiguous and clearly consistent with the statute’s apparent purpose, our inquiry as to the legislative intent ends ordinarily and we apply the statute as written without resort to other rules of construction.” *Id.* (citations omitted). “If ambiguities are found, other indica of legislative intent are consulted, including the relevant statute’s legislative history, the context of the statute within the broader legislative scheme, and the relative rationality of competing constructions.” *Harrison-Solomon*, 442 Md. at 265-66.

### *Analysis*

The current statutory scheme governing individuals found NCR can be traced back to the “Task Force to Review the Defense of Insanity,” which was created by Governor Harry R. Hughes in 1982. *Id.* at 272. At the time, pursuant to Maryland law, if a criminal defendant pleaded insanity and introduced *prima facie* evidence of insanity, the State was required to prove beyond a reasonable doubt that the defendant was sane at the time of the crime. *Id.* at 273. If the State failed to meet that burden, the court was required to commit the defendant, but only for an evaluation. *Id.* If the State wanted that commitment to continue beyond the evaluation, the State was then required to prove, by clear and convincing evidence, that the defendant met the statutory requirements for commitment. *Id.* Once committed, a defendant could secure his release in several ways, including by seeking an administrative hearing, “at which the State had to prove, by clear and convincing evidence, that continued confinement was appropriate.” *Id.* at 273-74.

In 1982, the Governor created the Task Force to review the current state of Maryland’s laws regarding insanity defenses.<sup>4</sup> *Id.* at 273. The Task Force ultimately determined that, “although the insanity defense was an appropriate and integral part of Maryland’s criminal justice system, problems existed with the commitment and release of insane defendants.” *Id.* The Task Force found that, in Maryland, “it had become increasingly difficult to commit involuntarily individuals, even where treatment was in

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<sup>4</sup> Many other states did likewise, in response to the finding of not guilty by reason of insanity in the trial of John Hinckley, who was charged with the attempted assassination of President Ronald Reagan.

their best interest and would prevent future dangerous behavior.” *Id.* The Task Force also found that many mentally ill individuals had become “street people” upon being convicted of certain crimes. *Id.*

In 1984, the Maryland General Assembly enacted legislation in response to the concerns raised by the Task Force. That legislation, which is now codified in CP § 3-101 *et seq.*, “reconfigured the allocation of the burdens of proof and made continued confinement and supervision of defendants found previously not criminally responsible somewhat easier to achieve by the State.” *Id.* at 274. One of the goals of the legislation “was to make more difficult raising successfully an insanity defense and easier for the State to maintain restrictions on those found not criminally responsible.” *Id.* In enacting the legislation, the General Assembly was “guided by a desire to strengthen protection of the public from the inappropriate release and discharge of defendants in criminal cases who are found not criminally responsible.” *Id.* at 276. To meet that end, the General Assembly “made it more difficult for defendants to avoid punishment by claiming mental non-culpability and increased the State’s ability to confine not criminally responsible defendants and require conditions for their release.” *Id.*

Under the current Maryland statutory scheme, the defendant bears the burden to prove lack of criminal responsibility pursuant to the test set forth in the statute. CP §§ 3-110 and 3-112. If such a defense is proven, the individual is automatically committed to MDH for institutional inpatient care or treatment, rather than merely being committed for

an evaluation, as was the case under the prior law.<sup>5</sup> CP § 3-112. After commitment, an individual may be “conditionally released,” but only if the committed person can prove his or her eligibility for conditional release. CP § 3-114. Then, if a committed person is conditionally released and the court receives a petition from the State’s Attorney for revocation or modification of the conditional release, the court must determine whether there is probable cause to believe that the committed person violated the terms of conditional release. CP § 3-121. If the court finds that such probable cause exists, the court “shall . . . issue a hospital warrant for the committed person and direct that on execution the committed person shall be transported to the facility designated by the Health Department[.]” CP § 3-121(e). Once the person is returned to MDH, MDH must hold a hearing within ten days unless: “(1) the hearing is postponed or waived by agreement of the parties; or (2) the Office postpones the hearing for good cause shown.” CP § 3-121(f). At that hearing, the Office must make specific findings and then “promptly” send a report to the court. CP § 3-121(g)-(h). Then, within ten days after receiving the report, the court must: “(1) revoke the conditional release and order the committed person returned to the facility designated by the Health Department; (2) modify the conditional release as required by the evidence; (3) continue the present conditions of release; or (4) extend the conditional release by an additional term of 5 years.” CP § 3-121(i).

Against that backdrop, we hold that the circuit court erred in failing to execute the hospital warrant and follow the mandates of CP § 3-121. The current statutory scheme

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<sup>5</sup> As noted *supra*, the statute contains some exceptions. Those exceptions are not relevant here.

presents significant hurdles that a defendant must overcome to not only obtain an NCR commitment but to secure a conditional release. Those hurdles were designed to make it “easier for the State to maintain restrictions on those found not criminally responsible” and “to strengthen protection of the public from the inappropriate release and discharge of defendants in criminal cases who are found not criminally responsible.” *Harrison-Solomon*, 442 Md. at 274, 276. To ensure those goals were met, the General Assembly enacted CP § 3-121, which provides a clear and comprehensive process to be followed when an individual is alleged to have violated the terms of conditional release. Thus, compliance with that process effectuates the legislative intent behind the current statutory scheme.

Moreover, in setting forth that process, the General Assembly signaled, in no uncertain terms, what the court and MDH must do when a court determines, as was the case here, that there is probable cause to believe that an individual violated the terms of his conditional release. The statute plainly states that the court “shall” issue a hospital warrant and direct that the individual be returned to an MDH facility. MDH then “shall” hold a hearing, make specific findings, and issue a report. Lastly, after considering the report and other evidence, the court “shall” do one of four things: revoke the conditional release, modify the conditional release, continue the present conditions of release, or extend the conditional release by five years. It is clear, then, that the provisions of CP § 3-121 are mandatory. *See Harrison-Solomon*, 442 Md. at 269 (“As this Court and the intermediate appellate court have reiterated on numerous occasions, the word ‘shall’ indicates the intent that a provision is mandatory.” (quoting *Perez v. State*, 420 Md. 57, 63 (2011))).



Finally, although neither this Court nor the Supreme Court of Maryland has held that a hospital warrant must be executed when issued, the Supreme Court did hold, in *Simms v. Maryland Department of Health*, 467 Md. 238 (2020), that CP § 3-121 contains important due process protections for committed individuals in such circumstances. In *Simms*, the petitioner complained that the process for issuing a hospital warrant and recommitment following a conditional release violated constitutional due process. 467 Md. at 242. The Court disagreed, holding that the petitioner’s due process rights were adequately protected. *Id.* at 259. In reaching that decision, the Court noted that “commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection” and that a person found not criminally responsible “is entitled to the procedural process demanded by the Federal Constitution and our Declaration of Rights.” *Id.* at 255-56 (quotation marks and citations omitted). The Court declared that, in the petitioner’s case, the question was “what procedural process was owed [the petitioner] once the State petitioned for revocation or modification of her conditional release and the petition was in the hands of the court.” *Id.* at 256. The Court concluded that any procedural process owed to the petitioner was satisfied by the “speedy hearing before an ALJ,” which was triggered by the court’s finding of probable cause and issuance of the hospital warrant. *Id.* at 258-59. The Court declared that the hospital warrant was “a necessary prerequisite to the revocation hearing” and that the revocation hearing was where an individual received “full due process rights.” *Id.* at 259.

Considering the plain language of CP § 3-121, the General Assembly’s intent in enacting the relevant statutory scheme, and the Supreme Court’s construction of CP § 3-

121 in relation to an individual's due process rights, we are convinced that the circuit court erred in failing to execute the hospital warrant and follow the strictures of CP § 3-121. Again, the General Assembly enacted CP § 3-121 with a clear purpose, i.e., to protect the public from individuals who have been inappropriately released from an NCR commitment. To effectuate that purpose, the General Assembly included in the statute a clear and mandatory procedure for when an individual is deemed by the court to have violated the terms of his conditional release. That procedure also includes important due process protections, which are satisfied by CP § 3-121's speedy administrative hearing. And, as the Supreme Court has intimated, the administrative hearing is triggered by the timely issuance and execution of a hospital warrant. *See Simms*, 467 Md. at 258-59; *see also Harrison-Solomon*, 442 Md. at 276-77 (highlighting the importance of timeliness to a committed person's due process rights).

For those reasons, we are constrained to remand this case to the Circuit Court for Charles County with instructions that the court execute the hospital warrant, direct that Strickland be transported to a secure facility designated by MDH, and follow the procedures set forth in CP § 3-121.

**IN NO. 2165/23, JUDGMENT OF THE  
CIRCUIT COURT FOR CHARLES  
COUNTY DENYING EXECUTION OF THE  
HOSPITAL WARRANT REVERSED;  
CASE REMANDED TO THAT COURT  
FOR FURTHER PROCEEDINGS  
CONSISTENT WITH THIS OPINION; IN  
NO. 202/24, APPEAL DISMISSED AS  
MOOT. COSTS ASSESSED TO CHARLES  
COUNTY.**