

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1054

September Term, 2023

RICHARD LEE EDWARDS

v.

STATE OF MARYLAND

Beachley,
Ripken,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: April 15, 2024

The Circuit Court for Dorchester County ruled that Richard Lee Edwards (“Appellant”) violated his probation by obtaining a new conviction while on probation for driving with a suspended license, pursuant to section 16-303(h) of the Transportation Article (“Trans.”) of the Maryland Code, and that the new conviction constituted a non-technical probation violation. Subsequently, the court revoked Appellant’s probation and imposed the remainder of his sentence. A timely appeal followed.

Appellant presents the following issue for our review:¹ Whether the court erred in finding that driving with a suspended license pursuant to Trans. section 16-303(h) was a non-technical violation of probation and, as a result, erred in revoking probation and sentencing Appellant based on a non-technical violation of probation.

For the reasons to follow, we vacate the judgment of the circuit court, and remand for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

In February of 2015, Appellant pled guilty to second-degree child abuse and was sentenced to 15 years of incarceration with all but eight years suspended followed by five years of probation. Appellant was released to probation in January of 2019. While Appellant remained on probation, in September of 2022, the court was informed by

¹ Consolidated and rephrased from:

1. Is driving a motor vehicle while one’s license is suspended a minor traffic offense – and thus a technical violation of probation – for purposes of Corr. Serv. Art. § 6-101(m) and Crim. Proc. Art. § 6-223(d)?
2. Did the circuit court err in revoking Mr. Edwards’ probation and imposing a sentence based on its conclusion that he committed a non-technical violation?

Appellant’s probation agent that new motor vehicle charges had been filed against Appellant in Somerset County. The agent requested that the court refrain from acting on the potential violation until the charges were adjudicated. In October of 2022, Appellant was found guilty in Somerset County of the offense of driving a motor vehicle while his license was suspended. Trans. § 16-303(h). Following the Somerset County conviction, the Circuit Court for Dorchester County scheduled a violation of probation hearing, which was held in January of 2023.

At the outset of the hearing, the State explained to the court that an agreement had been reached wherein Appellant would admit to the violation and there would only be argument by the parties as to whether the violation was technical. Appellant subsequently admitted to the violation. The court, after hearing arguments on the issue, found the violation to be non-technical, explaining that “it’s just traffic, I understand that, but it’s still a conviction and it’s still a must appear [offense]. And at this point I have someone who is showing no ability to follow either the law or his terms of probation. So I do not find this to be a technical.” The court then revoked probation and imposed the remainder of Appellant’s unserved sentence.

Pursuant to Maryland Rule 8-204 and section 12-302(g) of the Courts and Judicial Proceedings Article of the Maryland Code, Appellant filed an application for leave to appeal to this Court on February 14, 2023, which was granted on July 28, 2023.

DISCUSSION

I. A CONVICTION FOR DRIVING WITH A SUSPENDED LICENSE, PURSUANT TO MD. CODE TRANS. § 16-303(H), IS A TECHNICAL VIOLATION OF PROBATION.

A. The Justice Reinvestment Act

In 2016, the Justice Reinvestment Act (“JRA”) was passed by the General Assembly and signed into law. S.B. 1005, 2016 Leg., 436th Sess. (Md. 2016) 2016 Regular Session - Senate Bill 1005 Enrolled (maryland.gov). “The primary goal of the JRA was to reduce selectively Maryland’s prison population and use the resultant monetary savings to provide treatment to offenders, before, during, and after incarceration.” *Conaway v. State*, 464 Md. 505, 519 (2019). Pertinent to the present case, the JRA “significantly altered the law governing probation revocation.” *Miller v. State*, 249 Md. App. 738, 742 (2021).

The JRA introduced a new classification scheme for probation violations, differentiating between “technical” and “non-technical” violations. S.B. 1005, 2016 Leg., 436th Sess. (Md. 2016); *see also* Md. Code, Correctional Services Article (“CS”) §§ 6-101(m)(1)-(4) (adopted by the Criminal Procedure Article “CP” § 1-101(q) of the Maryland Code); CP § 6-223(d). Pursuant to the JRA, a technical violation is a violation of probation “that does not involve: (1) an arrest or a summons issued by a commissioner on a statement of charges filed by a law enforcement officer; (2) *a violation of criminal prohibition other than a minor traffic offense*; (3) a violation of a no-contact or stay-away order; or (4) absconding.” CS §§ 6-101(m)(1)-(4) (adopted by CP § 1-101(q)) (emphasis added).

As to technical violations, the JRA “provided presumptive limits on the sanctions

that courts could impose for such violations.” *Miller*, 249 Md. App. at 742. Under the JRA’s presumptive limits, the court may impose a maximum period of incarceration of 15 days for the first violation, 30 days for the second violation, and 45 days for the third violation. CP §§ 6-223(d)(2)(i)(1)-(3). Upon the fourth technical violation, or any subsequent violation, the court may impose the same sentence as if the violation was non-technical. CP § 6-223(d)(2)(ii). When a non-technical violation is committed, the court may “revoke the probation granted” and “impose any sentence that might have originally been imposed for the crime of which the probationer or defendant was convicted or pleaded nolo contendere.” CP §§ 6-223 (d)(1), (d)(2)(ii).

The presumptive periods of incarceration for technical violations may be rebutted if the court “finds and states on the record . . . that adhering to the limits on the period of incarceration . . . would create a risk to public safety, a victim, or a witness[.]” CP § 6-223(e)(2). In making that finding the court must consider: “the nature of the probation violation; the facts and circumstances of the crime for which the probationer or defendant was convicted; and the probationer’s or defendant’s history.” CP §§ 6-223(e)(2)(i)-(iii). Only then may a court impose a period of incarceration longer than the presumptive limits, but “no more than the time remaining on the original sentence[.]” CP § 6-223(e)(3)(i).

B. Parties’ Contentions

Appellant asserts that a conviction under Trans. section 16-303(h), driving while license or privilege to drive is suspended pursuant to Trans. sections 17-106, 26-204, 26-206, or 27-103, constitutes a technical violation of probation because it is a minor traffic offense. Thus, Appellant contends that the circuit court erred when imposing a sentence

wherein his probation was revoked and a period of incarceration was imposed following and stemming from the inaccurate finding that the violation was non-technical. Appellant therefore requests that this Court vacate his sentence and remand the case for a new hearing consistent with a finding of a technical violation of probation.

The State disagrees and argues that the court’s revocation of Appellant’s probation was lawful regardless of whether the violation was technical or non-technical.² The State asserts that regardless of whether the violation was technical, the court considered the enumerated factors required to impose a sentence exceeding the presumptive cap in the case of a technical violation and determined that Appellant was a public safety risk. Thus, the State contends that, pursuant to the JRA, it was lawful for the court to revoke Appellant’s probation and impose a sentence exceeding the presumptive cap for a technical violation.

C. Standard of Review

This Court generally reviews a trial court’s “determination that a defendant violated his or her conditions of probation for an abuse of discretion[.]” *Brendoff v. State*, 242 Md. App. 90, 108 (2019) (citation omitted). However, when, as here, the interpretation of Maryland statutory law is at issue, this Court applies the de novo standard of review. *State v. Callahan*, 441 Md. 220, 226–27 (2015); *see also Lawrence v. State*, 475 Md. 384, 398 (2021) (“Matters of statutory interpretation are questions of law; therefore, we interpret

² We note that the State seems to concede that the violation was technical in their briefing materials when it stated, “the *underlying technical violation* was preceded by multiple non-technical violations.” (emphasis added).

the meaning of [the law in question] *de novo*.”).

D. Minor Traffic Offense

Here, the term “minor traffic offense” has not been statutorily defined, as such we must interpret the meaning of the term to determine whether Trans. section 16-303(h), driving with a suspended license, is a technical or non-technical violation of probation. “The cardinal rule of statutory interpretation is to ascertain and effectuate the General Assembly’s intent.” *Conaway*, 464 Md. at 522 (quoting *Ingram v. State*, 461 Md. 650, 661 (2018)) (internal quotation marks omitted). The process begins by “looking to the normal, plain meaning of the language of the statute,” viewing it “in the context of the statutory scheme to which it belongs, with a focus on ascertaining the intent or underlying policy of the General Assembly in the statute’s enactment.” *Brown v. State*, 454 Md. 546, 551 (2017).

[T]he meaning of the plainest language is controlled by the context in which it appears. As [the Supreme Court of Maryland] has stated, because it is part of the context, related statutes or a statutory scheme that fairly bears on the fundamental issue of legislative purpose or goal must also be considered. Thus, not only are we required to interpret the statute as a whole, but, if appropriate, in the context of the entire statutory scheme of which it is a part.

Id. (quoting *Stickley v. State Farm Fire & Cas. Co.*, 431 Md. 347, 359 (2013)); *see also Gov’t Emps. Ins. Co. and GEICO v. Ins. Comm’r*, 332 Md. 124, 132 (1993). “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.” *State v. Bey*, 452 Md. 255, 265 (2017) (quoting *State v. Johnson*, 415 Md. 413, 421 (2010)).

We begin by reading the plain language of the statute within the context of the statutory scheme to which it belongs. *Brown*, 454 Md. at 551. We look to dictionaries as a starting point for identifying the ordinary meaning of the phrase “minor traffic offense.” See *Marriott Emps. Fed. Credit Union v. Motor Vehicle Admin.*, 346 Md. 437, 447 (1997) (noting that while not dispositive, dictionary definitions “provide a useful starting point” because the definitions suggest “what the legislature could have meant by using particular terms.”).

An offense, as defined by Black’s Law Dictionary, means “a violation of the law[.]” *Black’s Law Dictionary* 1300 (11th ed. 2019); see also *Offense*, MERRIAM-WEBSTER <https://perma.cc/6QTF-ZU7G> (defining offense as “an infraction of law”). Minor is defined as “inferior in importance, size or degree: comparatively unimportant[.]” *Minor*, MERRIAM WEBSTER <https://perma.cc/WW9X-BD8K>. The plain language of minor traffic offense clearly means a *violation* of a traffic law that is less significant compared to other traffic violations. See CS § 6-101(m) (adopted by CP § 1-101(q)). What is unclear from the language of the statute is the manner of identifying what traffic offenses qualify as minor. We therefore look to the statutory scheme and related statutes for context regarding the meaning of *minor*.

While the term “minor traffic offense” is not defined, the term “minor traffic violation” is defined within a subtitle of the Criminal Procedure Article. See CP § 10-101(g). We consider this definition appropriate context for aiding in the interpretation of minor traffic offense, due to the related nature of the statute and because we presume the

General Assembly was aware of its existence when the JRA was enacted.³ *See Johnson*, 415 Md. at 421–22.

A “minor traffic violation” is defined as “a nonincarcerable violation of the Maryland Vehicle Law[] or any other traffic law, ordinance, or regulation.” CP § 10-101(g) (footnote omitted). Thus, minor traffic violations are identified by their status as nonincarcerable. CP § 10-101(g). This definition provides critical context to the intention of the General Assembly, supporting the contention that the word minor within “minor traffic offense” was intended to include those traffic offenses which are nonincarcerable. Reading minor to include nonincarcerable offenses is both logical within the context of the statutory scheme promulgated by the JRA and consistent with the proposition that this Court presumes that the “Legislature intends its enactments to operate together as a consistent and harmonious body of law[.]”⁴ *Johnson*, 415 Md. at 421; *see also* CS § 6-101; CP § 6-223.

E. Trans. Section 16-303(h)

Reading minor traffic offenses to include nonincarcerable offenses, we turn to the language of Trans. section 16-303(h), the offense Appellant was convicted of, which

³ The definition of “minor traffic violation” has been in effect since its addition to the Maryland Code in 2001. Md. Code (1957, 2001 Repl. Vol.), Article 27, § 10-101(g) (2001).

⁴ While not dispositive, we note that the Maryland State Bar Association utilizes the term nonincarcerable as a synonym for minor, and vice versa, when explaining violations of the traffic law in its Practice Manual for Maryland Lawyers. *See* MARYLAND STATE BAR ASSOCIATION, PRACTICE MANUAL FOR THE MARYLAND LAWYER, Ch. 15 Traffic Law (2023)(Westlaw) (noting further that the Traffic Law chapter within the Practice Manual for the Maryland Lawyer, created by the Maryland State Bar Association, identifies two types of motor vehicle docket: major and nonincarcerable).

criminalizes driving a “motor vehicle on any highway or any property specified in § 21-101.1 of this article while [a] person’s license or privilege to drive is suspended under § 16-203, §16-206(a)(2). . . , § 17-106, § 26-204, §26-206, or § 27-103 of this article[.]” Trans. § 16-303(h). The penalty for violating section 16-303(h) requires a person to appear in court and pay a fine that is not to exceed \$500.00. Trans. § 16-303(k)(2). As the offense is definitionally nonincarcerable, a conviction of Trans. section 16-303(h) qualifies as a conviction of a minor traffic offense. *See supra* Section D. Minor Traffic Offense.

While the categorization of section 16-303(h) as a minor traffic offense is clear from the plain language of the statute, we turn to the legislative history of the JRA for confirmation of our interpretation. *See Shivers v. State*, 256 Md. App. 639, 659 (2023) (“Even where the statutory language is not ambiguous, however, it is useful to review legislative history of the statute to confirm that interpretation and to eliminate another version of legislative intent alleged to be latent in the language.” (internal quotation marks and citation omitted)).

The JRA, cross-filed as Senate Bill 1005 and House Bill 1312, was introduced based on the consensus recommendations from the Justice Reinvestment Coordinating Council (“the Council”). S.B. 1005, 2016 Leg., 436th Sess. (Md. 2016); H.B. 1312, 2016 Leg., 436th Sess. (Md. 2016); *see also* JUSTICE REINVESTMENT COORDINATING COUNCIL, FINAL REPORT Executive Summary (2015). The Council was established through legislative action the prior year for the purpose of “develop[ing] a statewide framework of sentencing and corrections policies to further reduce the State’s incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce

recidivism[.]” JUSTICE REINVESTMENT COORDINATING COUNCIL, FINAL REPORT, Executive Summary (2015). At the conclusion of the Council’s work, a report was published which included a summary of the Council’s “[k]ey [f]indings in Maryland’s Corrections System” and recommendations for the General Assembly to implement. *Id.* at Executive Summary, 5 (2015).

In the Final Report, Recommendation 17 noted the large number of individuals who are incarcerated for driving while suspended and then recommended “[e]liminating jail as a penalty for first-time driving while suspended and driving without a license offenses.” *Id.* at 22–23. Notably, the language uses “minor traffic offenses” in the heading of the recommendation that removes incarceration as a penalty for driving while suspended.⁵ *See id.*

The legislative history of the JRA also addresses the State’s contention during the hearing, although not raised on appeal, that the particular offense found in this case is a major traffic offense due to the requirement to appear in court. While the offense did require Appellant to appear in court, the reason behind the must-appear nature of the offense, as explained during testimony on S.B. 1005, supports the contention that the offense is a minor traffic offense. *See* Hearing on S.B. 1005 Before the S. Comm. On Jud. Procs., 436th Sess. (Md. 2016) JPR_3_2_2016_meeting_1 (maryland.gov) (advance to 2:02:56). While testifying about the JRA, a member of the Council explained that the

⁵ We note that the language of the Final Report identifies “first-time” driving while suspended offenses, although, ultimately, the result was the removal of incarceration for Trans. § 16-303(h) driving while suspended due to circumstances outlined in the statute. *See* CJP § 16-303(k)(2).

purpose of making an individual appear in court for the offense of driving while suspended, instead of allowing prepayment of the fine, is to address the underlying violation that caused the license to be originally suspended. *Id.* This explanation supports the contention that requiring the individual to appear in court does not impact the status of Trans. § 16-303(h) as a minor traffic offense and is instead solely a means to address the underlying offense.

We conclude that the plain meaning of minor traffic offense is not ambiguous and includes the nonincarcerable offense herein. Accordingly, based on the plain language and the supporting legislative intent of the JRA, the offense Trans. section 16-303(h), driving while license or privilege to drive is suspended under §§ 17-606, 26-204, 26-206, or 27-103, constitutes a minor traffic offense and is thus a technical violation of probation.

F. Sentencing

Following a finding that the defendant committed a technical violation, courts are permitted to impose a period of incarceration not to exceed the limitations articulated in CP § 6-223(d), unless “the court finds and states on the record, after consideration of the [enumerated] factors, that adhering to the limits on the period of incarceration established under subsection (d)(2) of this section would create a risk to public safety, a victim, or a witness[.]”⁶ CP § 6-223(e)(2); *supra* Section A. The Justice Reinvestment Act. Only then

⁶ Pursuant to CP § 6-223(e)(2), the court must consider the following factors: “the nature of the probation violation; the facts and circumstances of the crime for which the probationer or defendant was convicted; and the probationer’s or defendant’s history.” CP §§ 6-223(e)(2)(i)-(iii); *see also supra* Section A. The Justice Reinvestment Act.

can the court impose a period of incarceration greater than the limits articulated in CP § 6-223(d)(2), but “no more than the time remaining on the original sentence[.]” CP § 6-223(e)(3)(i).

Reviewing the hearing record we cannot conclude that the court made a determination as to whether the factors articulated in CP § 6-223 supported a finding that Appellant is a risk to public safety, a victim, or a witness. Instead, the revocation of Appellant’s probation appeared to be based, at least in part, on the court’s determination that the violation was non-technical.

Notably, when outlining Appellant’s rights at the outset of the proceeding, the court informed Appellant that “your attorney is going to argue that it is a technical, but you are facing the rest of your backup time in the event that it is not.” Further, while the court acknowledged Appellant’s numerous probation violations and struggle with compliance, there was no mention of the rebuttable presumption, nor a finding on the record of a risk to public safety which would then permit the court to sentence beyond the periods of incarceration per the presumptive cap for technical violations of probation. *See* CP § 6-223(e) (noting that the statute requires the court to make a finding on the record before imposing a sentence which is more than the presumptive limit).

Therefore, because the court imposed a sentence having determined that the new conviction, which was the basis of the violation of probation, resulted in a non-technical violation, we must vacate the sentence and remand the case for sentencing consistent with this opinion in a manner the court deems appropriate.

**JUDGMENT OF THE CIRCUIT COURT
FOR DORCHESTER COUNTY VACATED.
COSTS TO BE PAID BY APPELLANT.**