

Circuit Court for Baltimore City  
Case No. 24-C-21-003086

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1222

September Term, 2021

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GARY E. MADDOX, JR.

v.

PAROLE COMMISSION OF MARYLAND

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Berger,  
Nazarian,  
Arthur,

JJ.

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Opinion by Nazarian, J.

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Filed: July 12, 2022

\* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Gary E. Maddox, Jr., challenges the dismissal of a petition for mandamus that sought an order terminating the conditions of his mandatory supervision, specifically the Maryland Parole Commission’s (the “Commission”) imposition of a special condition that requires him to participate in a sex offender management program, as directed by the Division of Parole and Probation (“DPP”). He later amended his petition to include a request for damages. He argues that this special condition is unlawful because his underlying convictions of human trafficking are not sex crimes and he is not required to register as a sex offender. The Circuit Court for Baltimore City dismissed the amended petition. And because the conditions of Mr. Maddox’s mandatory supervision (including participation in the sex offender management program) were imposed properly under the Commission’s broad statutory discretionary authority, we affirm.

## I. BACKGROUND

In October 2013, Mr. Maddox transported a woman from Rhode Island to Maryland, arranging along the way for her to have sex with men for money that he kept for himself.<sup>1</sup> He was convicted by a jury in the Circuit Court for Howard County of two offenses: (1) knowingly persuading, inducing, or encouraging another to be taken to or placed in any place for prostitution, and (2) knowingly persuading, inducing, or encouraging another to be taken to or placed in any place for prostitution for financial benefit. At sentencing, his violations were merged into “human trafficking-benefit financially” under Maryland Code

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<sup>1</sup> The facts of Mr. Maddox’s underlying crimes were set forth in detail by this Court in our opinion affirming his convictions. *Maddox v. State*, No. 1424, Sept. Term 2015, slip op. at 1–5, 2015 WL 5968860, at \*1–3 (Md. Ct. Spec. App. Aug. 21, 2015).

(2002, 2013 Repl. Vol.), section 11-303(e)(1) of the Criminal Law Article (“CR”) in effect during 2013. On August 8, 2014, the circuit court sentenced Mr. Maddox to ten years’ incarceration, beginning on October 5, 2013.

On September 24, 2019, Mr. Maddox was released on mandatory supervision. “‘Mandatory supervision’ [is] a conditional release from confinement that is granted to an inmate” upon earning a sufficient amount of diminution credits. Md. Code (1999, 2017 Repl. Vol.), § 7-101(g)(1) of the Correctional Services Article (“CS”). Diminution credits are applied to an inmate’s term to reduce the length of incarceration. CS §§ 7-501 *et seq.*; *see generally Stouffer v. Holbrook*, 417 Md. 165 (2010) (discussing the nature, application, and calculation of diminution credits). CS § 7-502(a) provides that “[a]n individual on mandatory supervision remains in legal custody until the expiration of the individual’s full term.” And under subsection (b) of that section, “[a]n individual on mandatory supervision is subject to[] . . . any special conditions established by a commissioner” in addition to “all laws, rules, regulations, and conditions that apply to parolees[.]” *See also* COMAR 12.08.01.13 (providing “by statute, [released prisoners] are supervised ‘as if on parole’ and are subject to the jurisdiction of the Parole Commission after release and bound by the rules and conditions of parole until the legal expiration date of their sentence”).

Upon release, Mr. Maddox was ordered to comply with ten conditions of mandatory supervision release<sup>2</sup> and eight special conditions of mandatory supervision release. One of

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<sup>2</sup> These conditions apply generally to any inmate released on mandatory supervision and include directions to follow the parole agent’s instructions, work regularly, get

his special conditions, special condition 34, requires him to “[c]omply as directed by [his] parole/probation agent with the [DPP’s] sexual offender management program, which may include intensive reporting requirements, specialized sex offender treatment, electronic monitoring, medication, polygraph testing, and computer monitoring.” In accordance with special condition 34, DPP assigned Mr. Maddox to its sex offender management program, a component of the Collaborative Offender Management Enforcement Treatment (“COMET”) program.

On August 6, 2020, Mr. Maddox’s supervising agent asked the Commission to issue a subpoena for him because he failed to report for a July 31, 2020 polygraph examination. Instead, the Commission issued a sex offender warrant for Mr. Maddox’s arrest. The warrant alleged that Mr. Maddox had violated several conditions of his release, including a refusal to provide a urine sample, leaving the state without permission, being arrested in Virginia as a result of the outstanding warrant, and refusing to comply with special condition 34. In response, Mr. Maddox wrote a letter to the Commission asking it to recall the warrant on the grounds that he shouldn’t have been subject to sex offender supervision because (1) he didn’t have any sex offenses on his record and (2) he was not on the sex offender registry.

Once in the custody of the Division of Corrections, Mr. Maddox waived his right to counsel and admitted in writing that he had violated the conditions of his release. At a

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permission before leaving the state, obey all laws, and not to possess, use, or sell illegal drugs, weapons, or firearms. COMAR 12.08.01.21.D.

violation hearing on September 17, 2020, the Commission found that Mr. Maddox had violated conditions of his release and continued him on mandatory supervision. However, on September 29, 2020, Mr. Maddox sent a cease-and-desist letter to the Commission, demanding that it stop classifying him as a sex offender and “forcing [him] to do anything that is not named in the 10 mandatory conditions[.]” The Commission responded that it had determined that supervision was “appropriate” in his case pursuant to CS § 7-502(b)(2). The Commission stated, “Although human trafficking superficially appears to be a financial crime, it is in fact a violent crime whereby offenders force victims to engage in sex acts with others in order to reap a monetary reward. For this reason, DPP places individuals convicted of human trafficking under COMET supervision.”

On May 17, 2021, Mr. Maddox submitted to a special condition polygraph examination. The test revealed that “deception was indicated in reference to Mr. Maddox leaving the State of Maryland since January 1, 2021.” Mr. Maddox admitted to leaving the state without permission in violation of the conditions of his release. DPP asked the Commission to issue a subpoena charging Mr. Maddox with leaving Maryland without his agent’s permission, but the Commission instead directed DPP to reprimand Mr. Maddox rather than revoke his conditional release.

On July 30, 2021, Mr. Maddox filed a petition for a writ of mandamus in the circuit court. He asserted that the terms of his mandatory supervision are improper because he has not been convicted of any sex crimes and isn’t required to register as a sex offender. He amended the petition to request damages of \$250,000 in addition to termination of his

mandatory supervision.

In response, the Commission filed a motion to dismiss, supported by the Affidavit of David R. Blumberg, the Chairman of the Commission, arguing that the “Commission considers human trafficking for financial benefit to be a sex offense because the crime involves the sexual subjugation of another person for financial benefit.” He added that the “Commission has determined that the [DPP] has correctly placed Mr. Maddox in its COMET program, given the nature of his offense as well as his supervision violations—most notably, leaving the State without his agent’s permission on multiple occasions.”

The circuit court granted the Commission’s motion to dismiss on September 30, 2021. Mr. Maddox appeals.

## II. DISCUSSION

The facts are undisputed and the trial court’s dismissal of Mr. Maddox’s petition for mandamus is a purely legal question,<sup>3</sup> so we review the trial court’s order without deference. *See Hughes v. Moyer*, 452 Md. 77, 91 (2017); *State v. Callahan*, 441 Md. 220,

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<sup>3</sup> Mr. Maddox framed his Questions Presented as follows:

I. Did the lower court error In dismissing Mr. Maddox’s writ of Mandamus in support of the state memorandum and on grounds that there was no claim made? []

II. Did the parole commission have the right to issue a sex offender labeled warrant for Mr. Maddox’s arrest even though Mr. Maddox has never been convicted of any sex crimes[?]

The State framed its Question Presented as follows: “Did the circuit court properly dismiss Mr. Maddox’s amended petition for mandamus because he failed to establish a clear legal right to termination of mandatory supervision release and \$250,000.00 in damages?”

226–27 (2015). On appeal, Mr. Maddox argues again that the terms of his conditional release on mandatory supervision are improper as a matter of law because he was never convicted of any sex offense.<sup>4</sup> The Commission responds that his conditions of mandatory supervision were imposed properly pursuant to its broad discretionary authority under CS § 7-502(b)(2). We agree with the Commission and affirm.

Mr. Maddox’s petition for mandamus was dismissed properly by the circuit court because “a writ of mandamus is not the appropriate procedural tool ‘[w]hen an act rests by statute in the discretion of a person.’” *Holloman v. Mosby*, 253 Md. App. 1, 21 (2021) (quoting *Brack v. Wells*, 184 Md. 86, 90 (1944)). “Mandatory release under C.S. § 7-501, like parole, is uniquely an executive function and the enforcement and regulation thereof is vested solely within the Division of Parole and Probation.” *Hillard v. State*, 141 Md. App. 199, 210 (2001); see also *Simms v. State*, 65 Md. App. 685, 689 (1986) (discussing the nature of parole, akin to mandatory release, as “a purely executive function, the exercise of which must be, and by statute is, committed to an executive agency—the Maryland Parole Commission”). The authority to impose special conditions on an inmate’s mandatory supervision release lies within the discretion of the Commission. And that discretion is broad by design—“[a]n individual on mandatory supervision is subject to[] . . . any special conditions established by a commissioner.” CS § 7-502(b) (emphasis

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<sup>4</sup> Mr. Maddox also asserts that he did not sign a mandatory release certificate with special conditions and he does not agree to them. However, conditions of release are “effective regardless of whether the releasee signs the Order, providing a release from confinement occurs as a result of the Order.” COMAR 12.08.01.21.C(2).

added); *see also* COMAR 12.08.01.21.E (providing that “the Commission, in its discretion, may impose such special conditions as it deems appropriate to the individual”).

To survive a motion to dismiss, Mr. Maddox had to “demonstrate that a public official has a plain duty to perform certain acts, that [he] has a plain right to have those acts performed, and that no other adequate remedy exists by which [his] rights can be vindicated.” *Prince George’s Cnty. v. Carusillo*, 52 Md. App. 44, 50 (1982) (citations omitted). And although the Commission’s authority to implement mandatory supervision conditions is not unlimited, the Commission has the authority to “impose reasonable conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.” *Russell v. State*, 221 Md. App. 518, 541 (2015) (*quoting United States v. Knights*, 534 U.S. 112, 119 (2001) (internal quotation and citation omitted)) (upholding a court ordering polygraph testing as a component of COMET as a condition of probation); *see also Meyer v. State*, 445 Md. 648, 680 (2015) (citations omitted) (discussing limits on a court’s broad authority to impose conditions on probation, including that it “must be reasonable and have a rational connection to the offense[,]” that it must be “constitutional[,]” and “[i]n furtherance of good behavior and public safety”). Individuals on mandatory supervision, like parolees and probationers, “do not enjoy the absolute liberty to which every citizen is entitled.” *Russell*, 221 Md. App. at 541 (*quoting Knights*, 534 U.S. at 119).

We agree with the Commission that sex offender supervision is a “reasonable condition[]” of Mr. Maddox’s release in light of his underlying conviction for human trafficking of a woman who engaged in sex for Mr. Maddox’s financial benefit. *Id.*



Although Mr. Maddox is right that his convictions do not bring him within the statutory definition of “sex offender” under the sex offender registration statute, he nevertheless lacked a “plain right” to be removed from sex offender supervision during his mandatory supervision release. *Carusillo*, 52 Md. App. at 50. Maryland Code (2001, 2018 Repl. Vol.), section 11-701(l)(1) of the Criminal Procedure Article (“CP”) defines sex offender as “a person who has been convicted of . . . an offense that would require the person to be classified as a tier I sex offender, tier II sex offender, or tier III sex offender[.]” Subsection (p) of CP § 11-701 includes in the definition of Tier II sex offenders crimes under CR § 11-303, the statute for which Mr. Maddox was convicted, but only “if the intended prostitute or victim is a minor[.]”

The Commission concedes that Mr. Maddox is not required to register as a sex offender. But sex offender *supervision* isn’t restricted to individuals statutorily required to register as sex offenders. Mr. Maddox’s conviction falls under the sex offense umbrella of crimes (if not strictly making him a “sex offender”). Mr. Maddox also has violated other conditions of his mandatory supervision, and repeatedly so.

Although there is no authority expressly permitting sex offender supervision for those not meeting criteria for sex offender registration, our opinion in *Russell* is instructive. 221 Md. App. at 518. There, Mr. Russell argued that the polygraph component of his sex offender supervision during his probation was not authorized because he didn’t meet the statutory criteria for lifetime sexual offender supervision. He “assert[ed] that because the General Assembly authorized polygraphs ‘only under very limited circumstances,’ the

court lacked the authority to impose a polygraph requirement as a condition of probation.”

*Id.* at 542. We disagreed, explaining that the statutory scheme did not suggest that the court lacked authority to impose polygraph requirements for individuals currently on probation:

We find illogical any reading of this statute that would allow these conditions to be imposed during lifetime sexual offender supervision, but disallow these conditions to be imposed during the limited duration of one’s probation. Indeed, Russell cites no additional authority to suggest that courts lack the authority to impose polygraph testing as a condition of probation. Accordingly, we reject Russell’s assertion that the trial court exceeded its authority by imposing the polygraph component of COMET supervision.

*Id.* at 543.

The same analysis applies here. Nothing in the sex offender registration statute precludes the Commission from imposing sex offender supervision to an inmate’s limited duration mandatory supervision. The criteria for sex offender registration, like those for lifetime sexual offender supervision in *Russell*, does not limit the Commission’s authority to supervise Mr. Maddox as a sex offender given the facts underlying his convictions and his repeated violations of other terms of his release. And again, “[a]n individual on mandatory supervision remains in legal custody until the expiration of the individual’s full term[,]” CS § 7-502(a), and “is subject to[] . . . any special conditions established by a commissioner.” CS § 7-502(b)(2). The Commission’s authority is broad by design, and “where a probationer is released from imprisonment early under mandatory supervision, the probationer agrees, and is legally required, to comply with **all** conditions of mandatory supervision in exchange for his or her early release from imprisonment.” *Callahan*, 441

Md. at 233–34.

The Commission’s legal custody over Mr. Maddox, combined with its broad discretion to implement special conditions over an individual in its legal custody, proves fatal to Mr. Maddox’s petition for mandamus. The trial court determined properly that Mr. Maddox was not entitled to mandamus relief when it dismissed his petition.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
APPELLANT TO PAY COSTS.**