

Circuit Court for Worcester County
Case No. C-23-CR-24-000122

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2300

September Term, 2024

ELLIS CRAIG BRITTINGHAM

v.

STATE OF MARYLAND

Graeff,
Berger,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 4, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Convicted by a jury in the Circuit Court for Worcester County of attempted third degree sexual offense, Ellis Craig Brittingham, appellant, presents for our review a single issue: whether “the condition of probation forbidding [Mr. Brittingham] to ‘enter or be found’ within one mile of the complainant’s address [must] be stricken as . . . illegal.” For the reasons that follow, we shall affirm the judgment of the circuit court.

At trial, the State called A., who at the time was eight years old. A. testified that Mr. Brittingham is her neighbor. While A. was riding her bike, she accompanied Mr. Brittingham, who was “coming back from the store,” to his house. After Mr. Brittingham went inside, he stated that “he had a flea or tick on him,” and told A. that she could “come inside.” When A. entered the house, Mr. Brittingham removed his shirt, pants, and shorts, and A. “saw [Mr. Brittingham’s] private part.” Mr. Brittingham told A. “to look away,” then “asked [her] to turn back around” and “to touch his private part.” A. “went outside,” after which her uncle “came and got” her.

At sentencing, the prosecutor stated, in pertinent part:

Your Honor, the facts of this case are, of course, concerning to the State in that they’re somewhat predatory. We have a child who is what I would describe as a vulnerable child, a child who – this neighborhood is very clearly all close and connected. And, in fact, we heard testimony that Mr. Brittingham was actually over the victim’s residence that evening for a barbecue after these events occurred.

* * *

Mr. Brittingham is walking back from the store with a dog, and he invites [A.] to come into his residence, which she is not supposed to do. And she goes because he has a puppy, and he is inviting her to play with the puppy. And that is concerning to the State, that there is a certain level of that predatory nature of inviting her into a residence, knowing that she doesn’t really have somebody looking for her and protecting her.

His criminal history certainly does him no favors, Your Honor. There's thefts everywhere, violations of probation, drug, but, of course, what's also concerning to the State is that there are also assault second – there's also one assault second in 2001 and an escape charge as well.

Mr. Brittingham is, I think, Your Honor, a clear danger to the society at large or at least certainly a nuisance. With this conviction, he has elevated himself, I think, to a danger to society, rather than just a nuisance.

Defense counsel subsequently conceded that Mr. Brittingham “was living . . . in a family-owned residence that he rented,” “[h]e rides a bike or walks to the store normally from where he resides,” and A. “is a neighbor . . . who lives down the street.”

Following argument, the court imposed upon Mr. Brittingham a term of imprisonment of five years, all but eighteen months suspended. The following colloquy then occurred:

The one thing that is not going to be helpful for her going forward, I believe, is to ever lay eyes on Mr. Brittingham again. So, hopefully, that can come to pass. And to the extent that I can do anything about that, I will.

* * *

Upon his release, he's placed on probation. That probation will be for a period of five years. All standard conditions apply[.]

* * *

[H]e's not to have any contact with the victim in this case, and he is not to be – what's her – what's her address?

[PROSECUTOR]: Court's indulgence. Your Honor, I was going to propose, if the Court is amenable, given that this incident actually occurred outside of her residence on Hotel Road, that the Defendant be – not be permitted to be on Hotel Road.

THE COURT: Well, what is the address?

[DEFENSE COUNSEL]: ****.

THE COURT: He's not to be within one mile – he's not to be present or to reside within one mile of the victim's address, which we've just put on the record. Give me that address again, please.

[PROSECUTOR]: **** Hotel Road.

THE COURT: **** Hotel Road. You've got a one-mile radius around that, Mr. Brittingham. If you're in that radius, you're going to be in violation of your probation.

The court subsequently issued a “Probation/Supervision Order,” in which it ordered, in pertinent part: “Do not enter or be found near schools, minor children[,] or 1 mile of [A.’s address].”

Mr. Brittingham contends that the condition “must be stricken as an illegal part of [the] sentence,” as it “requires him to move out of his home.” Mr. Brittingham contends that “[f]orcing [him] to move . . . infringes on his ability to set up a home and live where he desires, which is a protected liberty interest under the Fourteenth Amendment to the United State[s] Constitution.” Mr. Brittingham further contends that the condition “is unreasonable and . . . not rationally related to the convicted offense.”

We disagree. We have recognized that a “condition to the granting of probation which compels a defendant to give up a fundamental or constitutional right is not in and of itself unconstitutional or invalid.” *Henson v. State*, 212 Md. App. 314, 327-28 (2013) (internal citations and quotations omitted). “Such a condition cannot stand only if it is not related to the crime of which [the] defendant has been convicted and if it has no reasonable relation to future criminality.” *Id.* at 328 (internal citation, quotations, and brackets omitted).

Here, the State, at trial, produced evidence from which the court could conclude that Mr. Brittingham’s behavior was, as the State characterized at sentencing, predatory. At sentencing, the State proffered that the neighborhood in which Mr. Brittingham and A. lived is “close and connected,” and that Mr. Brittingham was in contact with A. following the offense. The State further proffered that since, at the latest, 2001, Mr. Brittingham has been convicted of numerous offenses. Defense counsel indicated that Mr. Brittingham does not own the house in which he was living, normally “rides a bike or walks to the store,” and “lives down the street” from A. Finally, the court, in imposing the challenged condition of probation, indicated that it was doing so in order to help A. by precluding her from having to see Mr. Brittingham. We conclude that under these circumstances, the condition of probation is related to the crime of which Mr. Brittingham was convicted and reasonably related to future criminality, and hence, the condition is not illegal.

**JUDGMENT OF THE CIRCUIT COURT
FOR WORCESTER COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**