

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2503

September Term, 2016

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ROMER ROLANDO ORTUNO

v.

STATE OF MARYLAND

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Woodward, C.J.,  
Beachley,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: March 6, 2018

\*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.

On December 3, 2014, a jury in the Circuit Court for Worcester County convicted Romer Rolando Ortuno, appellant, of second-degree rape, first-degree burglary, and third-degree sex offense. He was sentenced to fifteen years in prison, with all but eleven years suspended, for rape, and a concurrent ten years for burglary. On appeal, this Court affirmed his convictions and sentence in an unreported opinion. *See Ortuno v. State*, No. 706, Sept. Term 2015 (filed Apr. 18, 2016).

Appellant has since filed a petition for a writ of *habeas corpus*, as well as a petition for post-conviction relief. As part of those proceedings, he was directed by the court reporter to file a motion with the court for the release of the electronic recordings of his trial and sentencing. Appellant did so. After the circuit court denied his motion, appellant noted this appeal. For the reasons stated below, we vacate the court’s order and remand with instructions to the court reporter to provide the electronic recordings to appellant.

Pursuant to Rule 16-504(a), electronic recordings are under the control of the court. Subsection (h)(1) of the rule provides that, with exceptions inapplicable to this case, “the authorized custodian of an audio recording shall make a copy of the recording or, if practicable, the audio portion of an audio-video recording, available to any person upon written request and, unless waived by the court, upon payment of the reasonable costs of making the copy.” Subsection (h)(3)(G) states that upon written request of a “party to the

proceeding or the attorney for a party,” the custodian “shall make available” a copy of the recording “unless otherwise ordered by the court[.]”<sup>1</sup>

Appellant contends that he was not required to obtain a court order for the production of the electronic recordings. The State takes no position on the matter on appeal. Pursuant to the provisions of Rule 16-504, we conclude that appellant was not required to seek a court order to obtain the requested electronic recordings.

**JUDGMENT OF THE CIRCUIT COURT  
FOR WORCESTER COUNTY DENYING  
APPELLANT’S REQUEST FOR AN AUDIO  
RECORDING OF HIS TRIAL AND  
SENTENCING VACATED. CASE IS  
REMANDED TO THAT COURT WITH  
INSTRUCTIONS TO GRANT HIS  
MOTION FOR AN AUDIO RECORDING  
OF HIS TRIAL AND SENTENCING UPON  
PAYMENT OF THE APPROPRIATE FEE.  
COSTS TO BE PAID BY WORCESTER  
COUNTY.**

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<sup>1</sup> Rule 16-504(j)(2) prohibits a person who receives a copy of a recording from “mak[ing] or caus[ing] to be made any additional copy of the recording; or,” with certain exceptions, “giv[ing] or electronically transmit[ting] the recording to any person not entitled to it under subsection (j)(1) of this Rule.”