Circuit Court for Baltimore City
Case No. 109320036
Post Conviction No. 117145

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2902

September Term, 2018

STATE OF MARYLAND

v.

ROBERT MOORE

Meredith,
Graeff,
Battaglia, Lynne A.,
(Senior Judge, Specially Assigned),
JJ.

Opinion by Graeff, J.

Filed: August 26, 2019

On November 9, 2011, following a jury trial, Robert Moore, appellee, was convicted of possession of cocaine and possession of cocaine with intent to distribute. He was sentenced to a term of eight years' imprisonment. His conviction and sentence were affirmed on appeal.

On December 12, 2016, appellee filed a *pro se* Petition for Post Conviction Relief, which the Circuit Court for Baltimore City granted on July 31, 2018. The State, appellant, subsequently sought leave to appeal pursuant to Md. Code (2016 Repl. Vol.) §7-109 of the Criminal Procedure Article ("CP"),[1] which this Court granted on January 8, 2019.

On appeal, the State raises the following question for this Court's review, which we have rephrased slightly, as follows:

> Did the postconviction court err in holding that failure to disclose a certain chain of custody document violated the State's obligations under *Brady v. Maryland*, 373 U.S. 83 (1963)?

Appellee raised an additional question on appeal, which he presents as an alternative ground why he was entitled to post-conviction relief:

> Did the post-conviction court err in failing to conclude that trial counsel rendered ineffective assistance of counsel in failing to obtain and examine certain chain of custody documents that could have been used for impeachment purposes at trial?

[1] Md. Code (2018 Repl. Vol.) § 7-109 of the Criminal Procedure Article ("CP") governs the appeal of final orders issued under the Uniform Conviction Procedure Act. *See Grandison v. State*, 425 Md. 34, 50 (2012), *cert. denied*, 568 U.S. 1093 (2013); *Jones v. State*, 379 Md. 704, 708 (2004). It provides, in pertinent part, as follows:

> (a) *Application*. — Within 30 days after the court passes an order in accordance with this subtitle, a person aggrieved by the order, including the Attorney General and a State's Attorney, may apply to the Court of Special Appeals for leave to appeal the order.

For the reasons set forth below, we shall remand the case, without affirmance or reversal, to the circuit court for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

This Court set out the background of the case in its unreported opinion on direct appeal. *See Moore v. State*, No. 162, Sept. Term, 2012, slip op. at 1-3 (Oct. 18, 2013). We stated:

> On November 3, 2009, at approximately 7:45 p.m., Detective Duane A. Weston, along with Detective Ronald Surratt, arrived at the 2000 block of East 20th street in Baltimore in an unmarked vehicle. The officers went to this location based on information they received from a reliable confidential informant. According to the informant, drug transactions were taking place out of a parked vehicle at this location. Upon arriving, Detective Weston saw [appellee] and Ms. Sara Hooker standing next to each other in front of a parked burgundy Chevrolet. No other persons were present.
>
> Detective Wilson pulled up, exited his vehicle, and announced "police." Although wearing plain clothes, his police badge was displayed around his neck and his service weapon was visible (but not drawn).
>
> At that point, [appellee] reached into his pocket, pulled out a plastic bag containing items consistent with street packaged narcotics, and then discarded it. Detective Weston was approximately five feet from the [appellee] when this occurred. As soon as [appellee] discarded the plastic bag, he began to run. Detective Wilson gave chase. After about a block, Detective Weston caught up with and arrested [appellee]. Incident to the arrest, Detective Weston seized $450.00 in cash and a cell phone.
>
> The narcotics discarded by [appellee] were recovered on the scene by Detective Surratt, whose trial testimony confirmed that of Detective Watson. Later chemical analysis showed there to be a total of 10.28 grams of cocaine, packaged in 90 individual gel caps, which Detective Surratt testified were packaged for distribution.
>
> Both detectives testified for the State in its case-in-chief, as outlined above. Admitted into evidence were the narcotics, the cash, the cell phone and a laboratory report verifying the presence and weight of the cocaine.

> [Appellee] testified at trial and provided a different version of the night's events. According to [appellee], he had just left his house and was in the middle of the 1900 block of Chester Street, which runs perpendicular to East 20th Street. At that point, he said, a car pulled up beside him, two officers jumped out with guns drawn and placed him in handcuffs. According to [appellee], Detectives Weston and Surratt then walked him through an alley in back of North Avenue, brought him to the Chevrolet, and formally arrested him.

As indicated, this Court affirmed appellee's convictions of possession of cocaine with the intent to distribute and possession of cocaine on direct appeal. On December 12, 2016, appellee filed a *pro se* Petition for Post Conviction Relief, which, as presented and subsequently amended, raised several claims, including, among other things, (1) ineffective assistance of counsel based on counsel's failure to object to the admission of

drug evidence in violation of Md. Code (2013 Repl. Vol.) §§10-1001[2] and 10-1003(a)(3)[3] of the Courts and Judicial Proceedings Article ("CJP"); (2) the State's failure to disclose chain of custody records in violation of *Brady*, which records would have generated

[2] Md. Code (2013 Repl. Vol.) §10-1001 of the Courts and Judicial Proceedings Article ("CJP") states:

> For the purpose of establishing that physical evidence in a criminal or civil proceeding constitutes a particular controlled dangerous substance under Title 5 of the Criminal Law Article, a report signed by the chemist or analyst who performed the test or tests as to its nature is prima facie evidence that the material delivered to the chemist or analyst was properly tested under procedures approved by the Maryland Department of Health, that those procedures are legally reliable, that the material was delivered to the chemist or analyst by the officer or person stated in the report, and that the material was or contained the substance therein stated, without the necessity of the chemist or analyst personally appearing in court, provided the report identifies the chemist or analyst as an individual certified by the Maryland Department of Health, the Department of State Police, the Baltimore City Police Department, or any county police department employing analysts of controlled dangerous substances, as qualified under standards approved by the Maryland Department of Health to analyze those substances, states that the chemist or analyst made an analysis of the material under procedures approved by that department, and also states that the substance, in the opinion of the chemist or analyst, is or contains the particular controlled dangerous substance specified. Nothing in this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in or the presumptions raised by the report.

[3] CJP § 10-1003(a)(3) provides:

> The provisions of §§ 10-1001 and 10-1002 of this part are applicable in a criminal proceeding only when a copy of the report or statement to be introduced is mailed, delivered, or made available to counsel for the defendant or to the defendant personally when the defendant is not represented by counsel, at least 10 days prior to the introduction of the report or statement at trial.

reasonable doubt as to whether the alleged drugs were tested as the State asserted; and (3) trial counsel was "ineffective for failing to object to the admission of the chain of custody, in particular as it related to the chemist, and for failing to obtain documents which would have allowed for the impeachment of witnesses testifying about the recovery, packaging, and testing of the alleged drugs."

On February 6, 2018, the Circuit Court for Baltimore City held an evidentiary hearing on appellee's Petition for Post Conviction Relief, during which appellee called several witnesses. Jean M. Williams, appellee's mother, testified that appellee had three children, two of whom she was raising. Sarah Hooker, appellee's wife, testified that she and appellee had been married since 2009, and they had children together. At the time of the hearing, she was incarcerated at Maryland Correctional Institution for Women in Jessup, and she expected to be released in 2021.

Ms. Hooker testified that, on the day appellee was arrested, she and appellee were arranging a birthday party for their 14-year-old child. Appellee, who needed money for the party, asked Ms. Hooker to drop him off at her aunt's house in East Baltimore. Ms. Hooker agreed, and after dropping him off, she drove to pick up some friends. Within 20-30 minutes, she received a call that appellee had been arrested. She drove back to her aunt's home and saw police cars.

Following the arrest, Ms. Hooker and appellee met with an attorney, Lawrence Rosenberg, who agreed to represent appellee in the criminal matter. Ms. Hooker related to Mr. Rosenberg her account of what happened, but she did not overhear appellee explain his account of the events.

Mr. Rosenberg testified that he began representing appellee in 2011 and maintained regular contact with appellee during the course of his representation. He reviewed the probable cause statement with appellee, discussed possible defense theories with him, and ultimately decided to argue at trial that the police had no way of observing appellee with drugs at the time the arrest occurred.

Appellee's post-conviction counsel showed Mr. Rosenberg a document marked as Petitioner's Exhibit A, which Mr. Rosenberg testified was "a chain of custody. Something from Evidence Control." He stated that he was not familiar with the document.[4] When asked what documents he typically received when the State provides him with notice and chain of custody, he said that he generally would get the "[s]tatement of charges, the chemical analysis, and the record."[5] Mr. Rosenberg stated that his defense was that appellee did not drop the drugs; he did not focus on whether the drugs in appellee's case actually were drugs. He stated, however, that he may have considered that defense if he had seen a chain of custody document that did not include the chemist.

On May 10, 2018, the court held another hearing. Counsel for appellee argued that the State violated its *Brady* obligations in failing to disclose a document, which is referred to as the "ECU Chain of Custody" (the "ECU Document") (attached to this opinion as

[4] Mr. Rosenberg said that he did not think he had ever seen it, but when counsel then tried to confirm whether it was in his file, Mr. Rosenberg said he did not know. He subsequently looked in his file, which he described as a "mess," and stated that he did not see the form in there.

[5] Mr. Rosenberg stated that the chemical analysis report is a one to two-page document.

Appendix A).[6] He asserted that, unlike Exhibit 5, a form with electronic signatures, the ECU Document did not include the chemist, Mr. Gary Verger. Counsel stated that, if the ECU Document had been available to trial counsel, i.e., Mr. Rosenberg, he "would have been able to use it to undercut the credibility of the State's witnesses and he would have asked [the witnesses] to come to court instead of waiving the presence of the chemist." Counsel for appellee claimed that, if trial counsel had the ECU Document, he would have been able to impeach the chemist and change his trial tactics to challenge whether the items received were contraband.

Counsel argued that appellee's case was a close one, and the impeachment value of the ECU Document would have "tipped the balance in [appellee]'s favor." Had the ECU Document evidence been available, there was a greater chance that appellee would have been acquitted because Mr. Rosenberg would have used that document to make a chain of custody argument, which, unlike the argument that appellee did not have "dominion or control" over the drugs, would not have required appellee to waive his Fifth Amendment right against self-incrimination and testify.

Counsel for the State referred to the two documents as the evidence control chain of custody, *see* Appendix A, and the lab chain of custody, stating that they were "documenting two different things but the movement of the same item through the Police Department, Evidence Control Unit." He explained that the State's chain of custody obligations under CJP § 10-1002(a) extend only to the "recovering officer, submitting

[6] Counsel for appellee advised the court that appellee obtained this document from the police department pursuant to "an MPIA request" after his appeal.

officer and the individual that tested the items at the lab," and it did not encompass "hand-offs" in the police Evidence Control Unit, the storage unit, which moved the sealed package from one vault to another. When asked about the failure of Mr. Rosenberg to object to the chain of custody evidence at trial, counsel stated that this was "trial strategy" to focus on a defense other than one that the drugs found were not contraband.

Counsel for appellee responded that the issue whether the State had a statutory discovery obligation to disclose the evidence is not dispositive as to whether the State complied with its *Brady* obligations. He again asserted that, if counsel had the document, it "would have changed his trial strategy."

Following the hearing, the post-conviction court issued an order and an accompanying memorandum granting appellee's Petition for Post-Conviction Relief. The court summarized appellee's argument as follows:

> On the basis of a discrepancy between the ECU Document and the Chain of Custody Report admitted in evidence at trial, [appellee] argues that he was wrongfully deprived of the opportunity to challenge the State's case—and asserts that this injury is the result of ineffective assistance of his trial counsel. Specifically, the Chain of Custody Report . . . and the Drug Analysis Report . . . identify Barry Verger as the chemist who tested the alleged narcotics and that Mr. Verger had control of the materials between 7:52AM and 8:36AM on December 9, 2009. The ECU Document, however, makes no mention of Mr. Verger; nor does it indicate movement of the materials between November 4, 2009 and December 10, 2009. [Appellee] argues that, had the State produced the ECU Document as required, trial counsel would have demanded the trial presence of the chemist—a right that was preserved by [appellee's] predecessor counsel—in order to exploit the impeachment value of the discrepancy between the documents.

With respect to appellee's claim that trial counsel rendered ineffective assistance of counsel based on his failure to obtain the ECU Document, the circuit court found that

appellee "ha[d] not satisfied his burden to prove *trial counsel's* actions fell below the applicable standard of reasonableness." The court stated that: (1) trial counsel "had never before seen the ECU Document prior to the post conviction hearing—and, in fact, despite his vast experience as a criminal defense attorney, had never before seen such a document in any criminal case"; and (2) trial counsel "issued fulsome discovery requests and conducted appropriate investigation." It concluded that, "[b]ased on trial counsel's knowledge at the time of trial, which was based on a reasonable and professional level of conduct and representation, no relief shall be granted on this basis."

With respect to appellee's *Brady* claim, the court found that, regardless of whether the ECU Document was the chain of custody form pursuant to CJP §§ 10-1001 and 10-1003, the State was required to disclose it under *Brady*, which required disclosure of all material evidence favorable to the defendant. Addressing the elements of a *Brady* violation the court initially found that knowledge of the ECU Document was attributed to the State:

> [T]he ECU [D]ocument and the Chain of Custody [Document] were in the possession of the Baltimore Police Department's Evidence Control Unit, as they were created for the department's records. The Baltimore Police Department regularly reports to the Office of the State's Attorney, and reported to the Office for [appellee's] case. The document in question was created in reference to a request made by the State to test and identify the items alleged to have been recovered from [appellee]. Knowledge of the ECU Document is therefore attributed to the State for purposes of determining whether it was suppressed under *Brady*.
>
> [Appellee] has failed to persuade the court that defense counsel failed to fulfill his obligation to conduct a reasonable pre-trial investigation. The court further finds that neither [appellee] nor his counsel had actual or constructive knowledge of the ECU Document or its content in advance of

> trial, and that the ordinary exercise of pre-trial diligence by defense counsel would not have unearthed the ECU Document.

(Footnote omitted.)

The court next addressed the requirement for a *Brady* violation that the evidence be favorable to the defense. In that regard, the court stated:

> [Appellee] asserts that inconsistencies between the Chain of Custody offered at trial and the ECU Document offer fertile ground to impeach the State's case. [Appellee] notes, as does the court, that at the post-conviction hearing, defense trial counsel testified that had the ECU Document been disclosed to him pre-trial, it would have provided the basis on which to enlarge his trial strategy to include impeachment of the State's chemist on cross-examination (and, therefore, a demand for the presence of the chemist at trial). The ECU Document does not bear the name of the chemist, Barry Verger, despite the Chain of Custody and Lab Report identifying Mr. Verger as the chemist who tested the alleged illicit substance. In stark contrast to the absence of any entry for December 9, 2009 on the ECU Document, the Chain of Custody form asserts Mr. Verger retrieved the item from the CDS Vault on December 9, 2009, at 7:52 AM. The court is persuaded and finds that this discrepancy pertains to a material element of the State's case; that had the ECU Document been produced, [appellee's] trial counsel would most likely have demanded the trial appearance of Mr. Verger in order to cross-examine him; and that counsel would then have cross-examined Mr. Verger to attempt to generate reasonable doubt as to the reliability of the State's evidence pertaining to the illicit nature of the substance the State charged [appellee] with possessing.

Finally, the court considered whether the ECU Document was material. After noting that the relevant standard is whether "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different," *Conyers v. State*, 367 Md. 571, 609, *cert. denied*, 537 U.S. 942 (2002), the court made the following findings:

> [Appellee] was charged with possession of a controlled substance with the intent to manufacture/distribute. The State's Chain of Custody [D]ocument, provided by the chemist . . ., avers that the tested substances

> were illicit narcotics and "provided the only evidence that the seized substance was a controlled substance, an element of the offense." *Harrod v. State*, 423 Md. 24, 39 (2011). As set forth above, had defense trial counsel had the benefit of the ECU Document, he would have been in a position to attempt to impeach the credibility of the chemist on several bases, including the assertions that the substance was tested and that it tested positive for cocaine. Had the ECU Document been produced, [appellee's] defense would not have been relegated to the confines of merely challenging the possession element of the charges, but rather would have had a robust alternative (if not primary) basis to generate reasonable doubt that the substance in question (even were it in [appellee's] possession) was illicit in nature. With an opportunity to challenge the credibility of the chemist and the lab report, defense counsel would have been equipped with two independent bases on which the jury might very well find [appellee] not guilty. In sum, the court finds that suppression of the ECU Document foreclosed an entire theory of defense and, had the ECU Document been disclosed, "there is a substantial possibility that the outcome in [this] case would have been different such that we cannot have confidence in the verdict." *Wilson*, 363 Md. at 352.
>
> For the forgoing reasons, this court finds that the State violated the requirements under *Brady v. Maryland*, and, on that basis, the court will grant [appellee's] post-conviction relief.

As indicated, this Court granted the State's application for leave to appeal the court's order.

STANDARD OF REVIEW

We "'will not disturb the factual findings of the post-conviction court unless they are clearly erroneous."' *Shortall v. State*, 237 Md. App. 60, 74 (2018) (quoting *Wilson*, 363 Md. at 348), *aff'd*, 463 Md. 324 (2019). With respect to constitutional claims, however, our review is *de novo*. *Ware v. State*, 348 Md. 19, 48 (1997). Such a review requires us to "'independently evaluate the totality of the circumstances as evidenced by the entire record."' *Id.* (quoting *Dorsey v. State*, 276 Md. 638, 659 (1976)).

DISCUSSION

The State concedes that the ECU Document does not contain the name of the chemist who analyzed the gel caps, Mr. Verger, and that this is in contrast to the Laboratory Section Chain of Custody document that was admitted into evidence and showed that Mr. Verger took the gel caps from the laboratory CDS vault on December 9, 2009, and later returned them there ("Chain of Custody Form"). The State argues, however, that the circuit court erred in finding that its failure to disclose the ECU Document was a violation of the State's obligations under *Brady*, asserting that, because "nothing in the ECU [D]ocument contradicts the Chain of Custody form, the ECU [D]ocument was not exculpatory or impeachment evidence whose disclosure was required under *Brady*."[7]

In *Brady*, 373 U.S. at 87, the Supreme Court held: "[T]he suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Accord Yearby v. State*, 414 Md. 708, 716 (2010). *See also Strickler v. Greene*, 527 U.S. 263, 280 (1999) (duty to disclose such evidence applies even when no request by accused and encompasses impeachment evidence as well as exculpatory evidence). There are three elements that must be proven to show a *Brady* violation: (1) the prosecutor suppressed or withheld evidence; (2) favorable to the defense,

[7] The State asserts that the ECU Document shows movement of the drugs in the evidence control unit, and because it "does not purport to cover the period of time that the gel caps were at the laboratory," that explains why the ECU Document does not show that Dr. Verger retrieved the gel caps from the laboratory's CDS vault on December 9, 2009.

either because it is exculpatory, provides a basis for mitigation of sentence, or provides grounds for impeaching a witness; and (3) the suppressed evidence is material. *Derr v. State*, 434 Md. 88, 125 (2013), *cert. denied*, 543 U.S. 903 (2014). The "burdens of production and persuasion regarding a *Brady* violation fall on the defendant." *Yearby*, 414 Md. at 720. *Accord United States v. George*, 778 F.2d 556, 561 (10th Cir. 1985) ("[T]he burden is on the defendant to establish the failure to disclose was violative of his due process rights.").

As indicated, the first element of a *Brady* claim is that the State suppressed evidence. If evidence is disclosed at trial, even belatedly, it is not suppressed. *Williams v. State*, 416 Md. 670, 691 (2010) ("[E]vidence known to the defendant or his counsel, that is disclosed, even if during trial, is not considered suppressed as that term is used in *Brady*."). *Accord In re Matthew S.*, 199 Md. App. 436, 459–60 (2011).

Here, the parties below, and the State on appeal, proceeded on the premise that the ECU Document was not disclosed until after the trial. Appellee, however, now contends that the ECU Document was admitted into evidence at his trial.[8]

In support of this contention, counsel for appellee cites the November 8, 2011, trial testimony of Detective Ronald J. Surratt, the officer who recovered the drugs. Detective Surratt explained that, after retrieving the drugs, he drove to the Eastern District of the Baltimore City Police Department, took a photograph of the drugs, "put them in heat

[8] Although appellee made this contention in the context of his argument that the circuit court erred in denying his claim of ineffective assistance of counsel, the argument that the document was admitted into evidence clearly is critical to the *Brady* analysis.

sealed bags along with the proper paperwork from the Police Department and proceeded to take them [to] Evidence Control for submission."

During Detective Surratt's testimony, the State admitted into evidence, as State's Exhibit No. 2, the evidence that the detective submitted to the Evidence Control Unit. At the direction of the prosecutor, Detective Surratt removed the contents of the bag, which included a Polaroid photograph, 90 gel caps containing a white substance, and a shower cap. The State then asked about a piece of paper with the Exhibit, and the following exchange ensued:

> [Detective Surratt]: That's the chain of custody.
>
> [Prosecutor]: And this—could you explain what the chain of custody is.
>
> [Detective Surratt]: Once I submit it to Evidence Control, it goes from my hands to the control agent at Evidence Control. It documents every time somebody takes custody of the narcotics from when I received it or seized the narcotics to when I submitted it.
>
> [Prosecutor]: Okay. And it documents the last person on this is you?
>
> [Detective Surratt]: Yes.
>
> [Prosecutor]: And that's this morning at 8:40?
>
> [Detective Surratt]: Yes.

Counsel for appellee, in his brief and at oral argument, asserted that the chain of custody document to which Detective Surratt referred was the ECU Document. There is support for this contention. Detective Surratt testified that the document he was referencing stated that, on November 8, 2011, at 8:40 a.m., he removed the bag from the

Evidence Control Unit. This reference is consistent with the ninth entry of the ECU document, which states:

> On Tuesday November 8th, 2011 at 8:40:26 AM, MICHAEL BECKETTE (Badge: F945, Cmd:ECU) transferred item to RONALD SURRATT (Badge: H68, Cmd: VCID) Reason: Court Appearance. The item was transferred from New C-Side Drug Vault (CTBX) to 'Court.' See transfer receipt for details.

See Appendix A.

Appellee's appellate argument, that the ECU Document was admitted at trial, was not made or presented to the circuit court. It is a factual issue, however, that is critical to our *Brady* analysis, and potentially relevant to the ineffective assistance of counsel claim, and appellate courts do not "engage in *de novo* fact finding." *Haley v. State*, 398 Md. 106, 131 (2007).

Accordingly, we shall remand to the post-conviction court to determine whether the ECU Document was, in fact, admitted into evidence. After making that factual finding, it is within the circuit court's discretion to determine the appropriate way to proceed from that point, depending on the finding that is made.

CASE REMANDED, WITHOUT AFFIRMANCE OR REVERSAL, TO THE CIRCUIT COURT FOR BALTIMORE CITY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID 50% BY MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND 50% BY APPELLEE.

APPENDIX A (Page 1)

Baltimore Police Department
EVIDENCE CONTROL UNIT
AC# 09061313

Chain of Custody

CC# 093K001346 T/C CDS

PAGE 3
DATE 08/13/2012
TIME 03:19:49 PM

Item #2 - CLEAR GEL CAPS CONTAINING WHITE ROCK SUBSTANCE (90 pieces) was turned over to EDNA M. Price (Badge: F245, Cmd: ECU) at the Baltimore Police Department on Tuesday November 3rd, 2009 by RONALD SURRATT (Badge: H681, Cmd: VCID). The current location of the item is 'New C-Side Drug Vault (M143)' and its current status is 'Hold'. The following is a chronological list of all transactions performed on this item:

Item was logged into evidence on 11/03/2009 at 10:58:56 PM.

On Wednesday November 4th, 2009 at 06:06:44 AM, GLORIA WILSON (Badge: T311, Cmd: LAB) transferred item to GLORIA WILSON (Badge: T311, Cmd: LAB) Reason: Lab Work Out. The item was transferred from 'Narcotics Drop Chute' to ''. See transfer receipt for details.

On Thursday December 10th, 2009 at 12:51:54 PM, LAVERN HICKS (Badge: M360, Cmd: ECU) transferred item onto premises from GLORIA WILSON (Badge: T311, Cmd: LAB) Reason: Lab Work Complete. The item was transferred from '' to 'NARCOTIC VAULT MEZ LEVEL (HLD1)'. See transfer receipt for details.

On Thursday December 10th, 2009 at 04:59:32 PM, LAVERN HICKS (Badge: M360, Cmd: ECU) moved item from location 'NARCOTIC VAULT MEZ LEVEL (HLD1)' to 'Mezz drug vault 2 (B239)'.

On Monday July 19th, 2010 at 11:13:47 AM, VERNETTA LEOPOLD (Badge: S684, Cmd: ECU) moved item from location 'Mezz drug vault 2 (B239)' to 'New C-Side Drug Vault (C079)'.

On Monday November 7th, 2011 at 08:09:27 AM, PATRICIA DAVIS (Badge: M291, Cmd: ECU) transferred item to RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Court Appearance. The item was transferred from 'New C-Side Drug Vault (C079)' to 'Court'. See transfer receipt for details.

On Monday November 7th, 2011 at 04:37:37 PM, PATRICIA DAVIS (Badge: M291, Cmd: ECU) transferred item onto premises from RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Return From Court. The item was transferred from 'Court' to 'CDS FOUND PROPERTY'. See transfer receipt for details.

On Tuesday November 8th, 2011 at 07:29:59 AM, EDNA M. Price (Badge: F245, Cmd: ECU) moved item from location 'CDS FOUND PROPERTY' to 'New C-Side Drug Vault (CTBX)'.

On Tuesday November 8th, 2011 at 08:40:26 AM, MICHAEL BECKETTE (Badge: F945, Cmd: ECU) transferred item to RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Court Appearance. The item was transferred from 'New C-Side Drug Vault (CTBX)' to 'Court'. See transfer receipt for details.

On Tuesday November 8th, 2011 at 04:38:48 PM, Sylvia Forrester (Badge: M354, Cmd: ECU) transferred item onto premises from RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Return From Court. The item was transferred from 'Court' to 'CDS FOUND PROPERTY'. See transfer receipt for details.

On Wednesday November 9th, 2011 at 07:46:50 AM, EDNA M. Price (Badge: F245, Cmd: ECU) moved item from location 'CDS FOUND PROPERTY' to 'New C-Side Drug Vault (CTBX)'.

_ChainLi

APPENDIX A (Page 2)

Baltimore Police Department
EVIDENCE CONTROL UNIT
AC# 09061313

Chain of Custody

CC# 093K001346 T/C CDS

PAGE 4
DATE 08/13/2012
TIME 03:19:49 PM

On Wednesday November 9th, 2011 at 08:58:51 AM, LISA R. BRECKENRIDGE (Badge: S930, Cmd: ECU) transferred item to RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Court Appearance. The item was transferred from 'New C-Side Drug Vault (CTBX)' to 'Court'. See transfer receipt for details.

On Wednesday November 9th, 2011 at 05:07:16 PM, Sylvia Forrester (Badge: M354, Cmd: ECU) transferred item onto premises from RONALD SURRATT (Badge: H681, Cmd: VCID) Reason: Return From Court. The item was transferred from 'Court' to 'CDS FOUND PROPERTY'. See transfer receipt for details.

On Thursday November 10th, 2011 at 07:32:13 AM, EDNA M. Price (Badge: F245, Cmd: ECU) moved item from location 'CDS FOUND PROPERTY' to 'New C-Side Drug Vault (CTBX)'.

On Monday December 5th, 2011 at 03:05:40 PM, VERNETTA LEOPOLD (Badge: S684, Cmd: ECU) moved item from location 'New C-Side Drug Vault (CTBX)' to 'New C-Side Drug Vault (M143)'.

NOTHING FOLLOWS

Exhibit 2

Chain 4