

Circuit Court for Anne Arundel County
Case No.: C-02-CR-18-000940

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3264

September Term, 2018

KADEEM RODERICK SANTIFUL

v.

STATE OF MARYLAND

Berger,
Gould,
Salmon, James P.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Salmon, J.

Filed: January 6, 2020

* 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 March 29, 2018, appellant, Kadeem Roderick Santiful (“Santiful”), was driving his motor vehicle on Interstate 695 near Exit 5, when he was stopped by Officer Conroy Harris of the Maryland Transportation Authority Police Department. After the vehicle was stopped, Officer Harris approached the vehicle and, according to his later testimony, smelled the odor of marijuana emanating from Santiful’s vehicle. The officer searched the vehicle and found a handgun.

Appellant was arrested by Officer Harris and charged, in the Circuit Court for Anne Arundel County, with, *inter alia*, wearing, carrying or transporting a handgun (“the handgun charge”). Santiful, by counsel, filed a motion to suppress the evidence that a handgun had been found in his vehicle. He claimed that Officer Harris did not have probable cause to believe that the vehicle contained evidence of a crime. He also moved to suppress the statements that he made to the arresting officer after his vehicle was stopped.

The aforementioned motions were considered by the Honorable Alison Asti. While considering the motion to suppress, an issue arose as to what sanction, if any, should be imposed due to the State’s failure to provide certain discovery. Judge Asti imposed a sanction for the discovery violation but nevertheless, denied the motion to suppress the handgun. Santiful’s motion to suppress the statements that he made to Officer Harris was granted.

Santiful, on February 5, 2019, filed a motion to reconsider the denial of his motion to suppress and the partial denial of his motion for sanctions. While those motions were

pending, Santiful appeared in court on February 7, 2019 and pled not guilty to the handgun charge but did so based on an agreed statement of facts. The court found appellant guilty of that charge and sentenced him to three years' incarceration, with all but 18 months suspended. The next day, Judge Asti denied Santiful's motions for reconsideration on the grounds that the motions were moot. This timely appeal followed.

QUESTIONS PRESENTED

The two questions presented in this appeal, as phrased by appellant, are:

1. Did the administrative judge abuse its discretion in denying [a]ppellant a continuance of his trial date and interfering with the motion[s] court's ability to fashion a discovery sanction it felt appropriate to the situation?

2. Did the lower court err in denying [a]ppellant's motion to suppress the fruits of a warrantless search not supported by probable cause?

BACKGROUND

At a pretrial status conference, appellant's motions to suppress were set for hearing on September 19, 2018 and trial was scheduled to begin on November 8, 2018. The "*Hicks* date" (*State v. Hicks*, 285 Md. 310 (1979)) was November 13, 2018.

The motion to suppress was not heard on the scheduled date. On the morning of trial, the prosecutor and appellant's counsel met with the Honorable Michael Wachs, the designee of the Honorable Laura S. Ripken, the administrative judge for the Circuit Court for Anne Arundel County. Judge Wachs was assigned by Judge Ripken to handle requests for continuance that would require a *Hicks* waiver. Counsel for appellant told Judge Wachs that she had previously cancelled the motions hearing because her client had been

incarcerated elsewhere and she had not had a chance to talk to him to determine whether he wished to proceed with the suppression hearing. Counsel also advised that she had since talked to appellant and determined that her client did want a hearing. Defense counsel added that she had filed a motion to convert the trial date into a motions hearing date, which meant, if the motion to convert were granted, that the trial would have to be continued and the November 13, 2018 *Hicks* date would have to be waived. Counsel added that her client was willing to waive the *Hicks* requirement. Judge Wachs said that if a judge was available, the suppression motion would be held that morning. He was not sure, however, whether a judge was available. As it turned out, Judge Asti was available, and the suppression hearing started that morning.

Officer Conroy Harris testified at the suppression hearing that at about 12:53 a.m. on March 29, 2018, he was patrolling an area of Interstate 695 when he saw a black Acura SUV traveling at a high rate of speed and crossing over the lane marker on multiple occasions. He activated his dashboard camera and proceeded to conduct a traffic stop of the SUV. When Officer Harris approached the vehicle he asked the driver, Santiful, to move his car from the far-right lane to the shoulder of the road for safety reasons. While delivering that request, Officer Harris claimed that he smelled the odor of raw marijuana emanating from the vehicle. At that point he did not tell Santiful that he smelled marijuana because he did not want to give the driver the opportunity to “get rid of the evidence.”

After Santiful complied with Officer Harris’s request to move his vehicle, the officer approached the car a second time and noticed that the vehicle had temporary license plates.

He then returned to his police cruiser where he called the station for backup and requested information about Santiful's temporary tags to make sure they were valid.

Ten minutes later, Officer Carey Young arrived as a backup officer. Harris approached Santiful's vehicle for a third time while Young remained by her cruiser. Thinking that the smell of raw marijuana "typically indicate[d] the presence of marijuana in a vehicle," Officer Harris ordered Santiful out of the car, placed him in handcuffs, patted him down and advised Santiful that he would be searching his vehicle due to the smell of marijuana.

Santiful protested, claiming that there was no smell of marijuana coming from his vehicle and that there was no marijuana in his SUV. Officer Harris nevertheless searched Santiful's vehicle. No marijuana of any kind was found in the vehicle, but the officer did find a handgun under the front seat of the car. Santiful was placed under arrest for the handgun offense.

Although Santiful did not take the stand at the suppression hearing, his counsel vigorously challenged the veracity of Officer Harris's claim that he smelled the odor of raw marijuana prior to conducting the search. Defense counsel asked Officer Harris if he ever told Officer Young that the smell of marijuana had prompted him to search the car. Officer Harris first said that he had told Young that he had smelled the odor of marijuana, but he did not recall telling her, at any point, that he was going to search the vehicle for that reason. Further cross-examination of Officer Harris was aimed at clarifying whether he ever told Officer Young that he had smelled raw marijuana immediately prior to the

vehicle search. At that point, Officer Harris did not say that he verbally advised Officer Young about the marijuana smell; instead, he testified that Officer Young “was well aware what [he] was going to do.” Officer Harris explained that the reason he knew that Officer Young was aware that he was going to search the vehicle because he had smelled the odor of marijuana was because whenever he requests a backup officer “typically I say request an additional officer for a PC [probable cause] search.” Officer Harris added that there was “a clear understanding that, yes, there’s going to be a PC search of the vehicle for marijuana.” Eventually, Officer Harris testified that he did inform Officer Young that he smelled the odor of marijuana emanating from the car by way of an electronic message sent over the cruiser’s computer system. According to Officer Harris, he: “let [Officer Young] know what I’m going to be searching a vehicle for and I did [so] when I went back to my patrol vehicle. So she was well aware of what was going on and what she is responding to.” Officer Harris also clarified that when he asked for “backup” he sent a computer message to the police operator that the smell of marijuana had emanated from the car.

At the suppression hearing, Officer Harris did not produce a copy of the electronic messages sent to either the police operator or to Officer Young nor did he bring with him any other evidence of electronic transmissions. After Officer Harris’s testimony concluded, he left the courthouse and the proceeding adjourned for lunch.

When the hearing resumed, defense counsel made a motion for sanctions due to the State’s failure to provide her client with the written computer messages, as was required

under Maryland Rule 4-263. The State and the defense agreed that the computer messages were discoverable. The prosecutor told Judge Asti that the existence of the computer messages was “news to [her]” and that she had never heard of this type of internal messaging and therefore had not provided the defense with it. The prosecutor continued that she did not know whether such messages were still preserved.¹

Regarding what sanction should be imposed for the discovery violation, defense counsel initially asked the court to either strike Officer Harris’s testimony as to what was in the messages that were electronically sent from his cruiser or grant a continuance. The words of defense counsel were as follows:

So I am asking that the [c]ourt find that, one, there were written statements that were not provided to the [d]efense. That, two, those written statements are discoverable, they are within the purview. It relates to this case and the officer certainly is an agent and responds to the State and falls under this rule.

And, three, that [y]our Honor will strike the testimony of that officer regarding the statements and if not, I would ask that [y]our Honor grant a reasonable continuance to in fact get these statements so that the [d]efense can properly prepare because either these statements exist and an officer did tell another officer about the odor of marijuana, which is extremely important, or, in the alternative, they do not exist[.]

(Emphasis added.)

¹ Appellant’s arrest occurred more than seven months prior to the suppression hearing.

In reply, the prosecutor said, *inter alia*, that she would be happy to investigate the issue of whether she could obtain the electronic messages.

Judge Asti, at that point, stated that, due to the *Hicks* date problem, only Judge Wachs could grant a continuance to discover the status of the computer messages. Because the *Hicks* date was Tuesday, November 13, 2018 and because the trial was set to start as soon as the court ruled on the suppression motions, Judge Asti contacted Judge Wachs by phone to request a hearing to determine whether the trial should be re-scheduled to a date later than November 13, 2018.

Before sending the case to Judge Wachs, Judge Asti commented: “if there is a remedy, it should be a continuance and not preventing the officer from testifying.” At that point, Judge Asti excused counsel so that they could discuss the matter with Judge Wachs.

A hearing was held before Judge Wachs that same afternoon. Judge Wachs asked defense counsel why defense counsel did not ask Judge Asti, as a discovery sanction, to exclude the part of Officer Harris’s testimony where he testified about the electronic message he had sent. Defense counsel said that this was one of the options she had asked Judge Asti to consider. The relevant colloquy was as follows:

THE COURT: What are the messages he says he sent?

[Prosecutor]: He says he sent some type of in-car like messaging to the other - - to the second officer.

THE COURT: That he smelled marijuana?

[Prosecutor]: Yes.

THE COURT: Okay.

[Defense Counsel]: Because I said you did not smell it - -

THE COURT: Why don't you just exclude that?

[Defense Counsel]: Well, that is what I asked.

THE COURT: You can just ask her to exclude it.

[Prosecutor]: She asked to exclude everything else.

[Defense Counsel]: I asked her to exclude the whole testimony.

THE COURT: No, no.

[Defense Counsel]: The portion of the testimony.

THE COURT: No, not all of the testimony, the testimony about the G-tag* or whatever that to some other car that there was marijuana.

[Defense Counsel]: Right. I gave her . . . [three] options, like all of it, some of it or continue. I know but - -

THE COURT: I know.

(Emphasis added.)

Immediately after the above exchange, Judge Wachs said that Judge Asti was “going to have to figure it out and make a decision on how she would like to proceed.” He added that he was “expecting [counsel] to wrap [the suppression motions] up today.” Judge Wachs then said that he was going to bring the defendant back for trial on Tuesday, November 13, 2018.² At that point, defense counsel told Judge Wachs for the first time that she could not try the case on November 13, 2018 because she was “out all next week

² Monday, November 12, 2018 was Veteran’s Day, a date on which the courthouse was closed.

taking care of a sick family member.” Judge Wachs said that he would take care of that issue later but he “would like [Judge Asti] to give [counsel] a decision today [on the pending motions].” At this point, the following exchange occurred:

[Prosecutor]: So I think the problem is is I think that what she - - I understood and, again, I get it that this is all messed up. I think we need to go back to her. If she says I am granting the Defense’s request for a continuance - -

THE COURT: A continuance of what, the motion hearing?

[Prosecutor]: Yes.

THE COURT: She has made the motion hearing. I do not know why - - in my mind there is zero reason to postpone the motion hearing. There are other remedies, better and are currently available to her.

It is her call on the motion hearing. I guess as far as what that does to a trial date, I will have to figure that out when you come back up again after you have completed your motion hearing. Okay? So she is going to have to just give you a ruling.

[Defense Counsel]: And I just want to be clear so that [y]our Honor is aware when we were in Chambers earlier, she indicated that she does not get criminal cases very often and she might need time to decide this motion.

THE COURT: That is the big issue between her and Judge Ripken.

[Defense Counsel]: Okay. I just do not want us to get involved in - -

THE COURT: No, that is not your fault. It is not one of your faults. I cannot say anything further about that at this point.

[Defense Counsel]: Okay. And I am sorry about next week. We will deal with that.

THE COURT: I am not trying to - - I wanted to get it done by [Hicks] which is Tuesday so in my mind I am just bringing the guy, the gentleman, back on Tuesday.

[Defense Counsel]: Right.

THE COURT: But if you have some family obligation, I will be happy to work around that.

[Defense Counsel]: Okay. And I did advise the State that I have that.

THE COURT: But the [d]irective from Judge Ripken if I understood correctly is for Judge Asti to give you a decision today as to whatever she decides on your suppression issues. And if you get the decision today and it is dispositive, then we can put an end to the case today.

Counsel then went back before Judge Asti that same afternoon. The prosecutor advised Judge Asti that although she did not believe that Judge Wachs “officially made a ruling” on the request for continuance, she thought “he was not inclined to postpone” the case. Defense counsel concurred with that assessment. Defense counsel then said:

So I do not know what remedy, [y]our Honor, if anything[,] you believe is appropriate but I always start from the top. The top is the exclusion of the testimony entirely or excluding the portions that he testified but then how, you know, I do not know how the [c]ourt views that or continuing to allow to pursue that.”

(Emphasis added.)

Defense counsel admitted that the State had made a diligent effort to try and obtain the electronic transmissions and conceded that the prosecutor had tried to obtain an answer to the question as to how long such electronic transmissions were retained. Defense counsel also said that she did not believe that an answer to those questions could be obtained that afternoon.

The prosecutor responded, *inter alia*, by pointing out that Judge Wachs had suggested the possibility that the court could just exclude the part of the officer’s testimony

where he testified about the electronic communications; the prosecutor then said that Judge Wach's suggestion was acceptable to the State. In her response, defense counsel did not disagree with the State's proposed resolution. Instead, defense counsel simply reiterated that even though she did not think there was "bad faith" on the part of the prosecutor she nevertheless believed that a sanction was appropriate.

Judge Asti said that although no one was sure whether Judge Wachs did or did not rule on the continuance request, it nevertheless appeared, from what counsel has said, that Judge Wachs would "not be inclined to grant a continuance so since I am unable to grant a continuance, that option is not available to this [c]ourt." She then proceeded to rule as follows:

Based upon that, and just considering all of the other options, what I think is appropriate in this case is that the officer's testimony which pertains to his sending that text message or whatever it is properly called to the other officer should be excluded and [the case] not continued and, likewise, from the other officer, you know, it should not be included given that you have not had time to review it and consider it.

So the officer's testimony -- the rest of the officer's testimony will be considered but his testimony that he sent that text message to the other officer will not be considered.

Immediately after that ruling, defense counsel announced that she would not be calling any witnesses.

Both the defense and prosecutor then made arguments as to whether the motion to suppress should be granted. Both counsel agreed that Officer Harris had reasonable ground to stop appellant's vehicle and that, if he in fact smelled marijuana emanating from appellant's SUV prior to the time that he searched the vehicle, the search was based on

probable cause and was thus legal. The issue that separated the prosecutor and defense counsel was whether Officer Harris's testimony, that he smelled marijuana emanating from the vehicle prior to the search, was credible. Counsel for appellant argued, vigorously, that the officer's testimony simply was not credible; the prosecutor argued the opposite. Judge Asti, after hearing argument regarding the credibility *vel non*, of Officer Harris, also considered appellant's argument that statements appellant had given to Officer Harris at the scene should be suppressed due to Officer Harris's failure to advise appellant of his *Miranda* rights.

Judge Asti, in her oral opinion, found that Officer Harris was credible when he said that he smelled the odor of raw marijuana emanating from appellant's vehicle and, based on what he smelled, had probable cause to search that vehicle. Therefore, Judge Asti denied the motion to suppress the evidence found pursuant to that search.

Regarding the statement made by appellant to Officer Harris, Judge Asti took the matter under advisement, but assured counsel she would have a ruling on that motion by the next Tuesday – the *Hicks* date.

Immediately after Judge Asti's ruling, counsel once again appeared before Judge Wachs. After counsel advised him as to what had just happened, Judge Wachs advised counsel that because of the late hour, the jurors who might have heard the case had been sent home. Defense counsel then reiterated that she would not be available to try the case by the *Hicks* date, due to family responsibilities. Based on the fact that Judge Asti had taken under advisement the issue of whether appellant's statements to Officer Harris should

be suppressed, coupled with the fact that defense counsel would not be available to try the case on the date Judge Asti was to make her decision (or for three days thereafter), Judge Wachs found good cause to grant a continuance of the trial date.

On December 3, 2018, the prosecutor advised defense counsel that nowhere in the text messages Officer Harris sent on the night in question did Officer Harris advise Officer Young that he had smelled marijuana emanating from appellant's SUV. About two months later, on February 5, 2019, appellant filed a motion to reconsider the discovery sanction imposed. That later motion was based on the information supplied by the prosecutor on December 3, 2018.

As previously mentioned, on February 7, 2019, appellant pled not guilty to the handgun charge based on an agreed statement of facts, and one day later the motion to reconsider was denied as moot.

ISSUE ONE

Appellant argues:

The administrative judge abused [his] discretion in denying appellant a continuance of his trial date and interfering with the motion court's ability to fashion a discovery sanction it felt appropriate to the situation.

In support of the argument just quoted, appellant contends that Judge Wachs:

improperly interfered with a motions court's obligation to fashion an appropriate sanction for a discovery violation when it erroneously found no good cause to postpone the trial in the case beyond the *Hicks* date to accommodate a discovery sanction of a continuance. In so doing, the administrative court abused its discretion, all to the prejudice of [a]ppellant.

In reply, the State takes issue with appellant’s assertion that Judge Wachs “found no good cause to postpone the trial in the case beyond the *Hicks* date to accommodate a discovery sanction of a continuance.” The State contends that Judge Wachs “did not rule on” appellant’s continuance request prior to Judge Asti’s denial of the motion to suppress. In the alternative, the State contends that even if Judge Wachs denied the request to postpone, appellant was not prejudiced because Judge Asti “granted [appellant’s] requested discovery sanction, which was to strike portions of the State’s evidence.”

We agree with the State that, technically speaking, Judge Wachs never found that there was “no good cause to postpone the trial” beyond the *Hicks* date. As both the prosecutor and defense counsel told Judge Asti, prior to Judge Asti’s imposition of a sanction, Judge Wachs had not ruled on that matter: instead, he indicated that he was not inclined to grant a continuance.

Nevertheless, for purposes of the resolution of the issue presented, we shall assume, *arguendo*, that Judge Wachs, prior to Judge Asti’s denial of the motion to suppress, did deny a continuance of the trial date. The question then becomes: did he abuse his discretion in doing so?

In answering that question, it must be remembered that before Judge Wachs made any ruling, defense counsel had already asked Judge Asti to “strike the testimony of [Officer Harris] regarding the [electronic] statements and if not, . . . grant a reasonable

continuance to in fact get these statements[.]”³ Moreover, when the matter was sent to Judge Wachs to consider the issue of whether a continuance should be granted, defense counsel specifically told Judge Wachs that one of the options that she had asked Judge Asti to consider was to exclude that part of Officer Harris’s testimony in which he claimed that he had sent electronic messages saying that he was conducting the search because he had smelled marijuana. More specifically, defense counsel told Judge Wachs that as a possible sanction, defense counsel had given Judge Asti three options, i.e., exclude all of Officer Harris’s testimony, exclude the part of it regarding the electronic messaging, or continue the case. In the argument before Judge Wachs, defense counsel gave no indication that it was her position that if Judge Asti selected any of the three options, the result would be unsatisfactory to her client. Under such circumstances, Judge Wachs clearly had very solid grounds to opine, as he did, that there was no reason to continue the case because there were other options, i.e., the two other options that appellant’s counsel indicated would be satisfactory to her client.

³ A flaw in appellant’s brief is that his counsel fails to acknowledge that appellant’s trial counsel told both Judge Wachs and Judge Asti that, as a discovery sanction, one of the sanctions defense counsel requested was the very sanction that Judge Asti imposed. In his brief, appellant’s counsel makes the following statement that is not supported by the record: “Defense counsel requested [that] the court find a discovery violation and either strike Harris’s testimony in its entirety or order a reasonable continuance[.]” On the page of the record that appellant cites to support that statement, what defense counsel actually asked for was that the court “strike the testimony of that officer regarding the [electronic messaging] statements and if not, I would ask that [y]our Honor grant a reasonable continuance to in fact get these statements[.]”

Contrary to an implied suggestion in appellant's brief, appellant never contended before Judge Wachs or Judge Asti that appellant would be prejudiced if the court denied a continuance but imposed, as a discovery sanction, the exclusion of the portion of Officer Harris's testimony concerning the electronic messaging.⁴

In considering whether Judge Wachs abused his discretion in this matter, it is useful to keep in mind that on November 8, 2018, neither Judge Wachs, Judge Asti, nor trial counsel knew the retention policy of the Maryland Transportation Authority Police Department regarding electronic messaging. Thus, it was entirely possible that if an extension had been granted, no electronic messages would have been obtained because they were not retained. Moreover, Judge Wachs would have had no way of knowing how long a postponement was necessary to find out if copies of the electronic messages had been retained.

Appellant points out that Maryland Rule 4-263(n) gives the motions judge, when considering sanctions, the discretion to decide whether to impose a sanction for any discovery violation and, if so, what sanction is to be appropriate. *See Evans v. State*, 304 Md. 487, 500 (1985). Appellant contends that Judge Wachs inappropriately narrowed Judge Asti's discretion by reducing three options down to two. While it is true that Judge

⁴ It is understandable why appellant's trial counsel would be satisfied with the sanction option selected by Judge Asti. By striking the testimony about electronic messaging, the defense was not harmed by the discovery failure. And it is only in hindsight that one can say that appellant would have benefitted by a continuance. After all, if a continuance had been granted and copies of the electronic messages were provided that said what Officer Harris claimed they said, the grant of the continuance would have seriously undermined defense counsel's attack on Officer Harris's credibility.

Asti's opinions were narrowed, we fail to see how this gave appellant cause to complain when, as here, appellant's counsel indicated to the motions judge that imposing either of the two remaining options was satisfactory.

An abuse of discretion “occurs when a trial judge exercises discretion in an arbitrary or capricious manner or when he or she acts beyond the letter or reason of the law.” *Campbell v. State*, 373 Md. 637, 665-66 (2003). Moreover, it has been stated in regard to when an abuse of discretion occurs, that “[t]he decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Aronson & Company v. Fetridge*, 181 Md. App. 650, 688 (2008) (quotation marks and citation omitted).

An administrative judge, or his or her designee, is vested with very broad authority when considering whether good cause exists to postpone a case. *Howard v. State*, 440 Md. 427, 438-39 (2014). Because there were alternatives to a postponement that defense counsel told Judge Wachs would satisfy appellant, Judge Wachs plainly did not abuse his discretion by, impliedly, failing to find “good cause” prior to Judge Asti's ruling on the motion to suppress.

ISSUE TWO

In his brief, appellant admits that if Officer Harris did, in fact, smell marijuana prior to searching his vehicle, the officer had probable cause to do so. Appellant concedes that the issue presented to Judge Asti was “[w]hether Harris actually smelled raw marijuana when he approached the car or whether this was merely a fiction promulgated to create

probable cause to justify a search” under *Robinson v. State*, 451 Md. 94, 125 (2017). According to appellant, Officer Harris’s testimony that he smelled raw marijuana coming from the SUV was “discredited” due to “inconsistencies” in his testimony. Judge Asti considered that argument and rejected it, saying:

[A]lthough there was no one else that smelled it or nothing else that he did separate from that to corroborate, I do not believe that that is required and I do not have any basis to not believe the officer’s testimony.

I did believe that he was credible when he said that he smelled the odor of marijuana. So I am going to deny the motion as it pertains to the search[.]

There were, as appellant points out, some inconsistencies in Officer Harris’s testimony. But, on appeal, we review the suppression record in the light most favorable to the prevailing party – in this case, the State. *State v. Tolbert*, 381 Md. 539, 548 (2004). We defer to the suppression court’s factual findings and credibility determinations unless clearly erroneous. *Id.* Judge Asti’s fact finding about the credibility of Officer Harris’s testimony simply cannot be said to be “clearly erroneous.” In light of the fact that Judge Asti found the testimony of Officer Harris to be credible, we must defer to that first-level fact finding, i.e., the “who, what, when and where” of a scenario and the “resolutions of conflicts in evidence[.]” *Dixon v. State*, 23 Md. App. 19, 36, 38 (1974). Therefore, we reject appellant’s contention that Judge Asti erred in believing Officer Harris’s testimony.

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