ADNAN SYED, Petitioner v. YOUNG LEE, AS VICTIM'S REPRESENTATIVE, AND STATE OF MARYLAND, Respondent	IN THE SUPREME COURT OF MARYLAND September Term, 2023 Pet. No. 81

PETITION FOR WRIT OF CERTIORARI

Petitioner Adnan Syed petitions this Court to issue a writ of certiorari to the Appellate Court of Maryland to review that court's opinion in *Lee v. State, et al.*, No. 1291, September Term, 2022 (filed March 28, 2023), reversing the order of the Circuit Court for Baltimore City vacating Mr. Syed's convictions.

On September 14, 2022, the State, after a year-long investigation, filed a motion to vacate Mr. Syed's convictions under Criminal Procedure Article § 8-301.1. Following a hearing on September 19 at which the victim's representative, Young Lee, appeared remotely, the circuit court granted the motion, vacated Mr. Syed's convictions, and directed the State to schedule a date for a new trial or enter a nolle prosequi within 30 days. On October 11, after DNA results excluded Mr. Syed as a contributor to DNA found on the victim's shoes, the State entered a nolle prosequi.

On September 28, 2022, Mr. Lee noted an appeal. In his brief and at oral argument, he alleged that he had a right to appear in-person at, and participate as a party in, the vacatur hearing. A divided panel of the Appellate Court reversed. The

Appellate Court held that the appeal was not moot despite the entry of a nolle prosequi by the State. Turning to the merits, the court held that that Mr. Lee had the right to appear in-person at the hearing and that the circuit court committed reversible error by denying Mr. Lee that right. However, the court held that Mr. Lee had no right to participate. On May 2, 2023, the Appellate Court denied Mr. Syed's motion for reconsideration in which Mr. Syed argued that the Appellate Court should have required Mr. Lee to show prejudice prior to reversing.

Mr. Syed has filed a motion to stay the Appellate Court's mandate, which is due to be issued on May 30, 2023.

QUESTIONS PRESENTED

1. Does a lawfully entered nolle prosequi render moot an appeal alleging procedural violations at a hearing occurring prior to the nolle prosequi?

2. Does a victim's representative, a non-party to a case, have the right to attend a vacatur hearing in-person or does remote attendance satisfy the right?

3. Was notice to the victim's representative of the vacatur hearing sufficient where the State complied with all statutory and rules-based notice requirements?

4. Must a victim's representative seeking reversal show prejudice on appeal?

PERTINENT AUTHORITY

Md. Code, Crim. Proc. Art. § 8-301.1

Md. Rule 4-333

STATEMENT OF FACTS

The history of this case predating the motion to vacate is set forth by the Appellate Court on review of the order granting Mr. Syed's petition for post

conviction relief. *See State v. Syed*, 236 Md. App. 183, 193-209 (2018), *rev'd*, 463 Md. 60 (2019).

In October of 2021, the Office of the State's Attorney for Baltimore City began a review of the integrity of Mr. Syed's convictions. Based on that review and additional investigation, the State and Mr. Syed jointly petitioned for DNA testing of the victim's clothing on March 10, 2022. Before filing the petition, the State notified Mr. Lee and offered to answer any questions he might have.

On September 12, 2022, two days before it moved to vacate Mr. Syed's convictions, the State contacted Mr. Lee again to provide him with advance notice of the filing. The State also discussed the motion by telephone with Mr. Lee, who lived in California, on September 13. The State's representative advised him that there would be a hearing on the motion and provided him with her contact information. Before filing, the State emailed a copy of the motion to Mr. Lee, who replied the same day, expressing his disagreement with the decision to seek vacatur but stating that he understood the State's position.

Almost immediately following a scheduling conference on September 16, the State emailed Mr. Lee to notify him that the hearing would be held on September 19. Because the hearing would be in-person, the State informed Mr. Lee that he would be provided a Zoom link so that he and his family would have the option of attending remotely. When she had not heard back from him two days later, the State's representative reached out to him by text message to confirm that he had received her email and was aware of the hearing. Mr. Lee acknowledged receipt of

the email and stated that he would be joining by Zoom.

On September 19, Mr. Lee, through counsel, filed a motion to postpone the vacatur hearing. After hearing argument from his attorney, the circuit court denied his motion. Mr. Lee then joined the hearing via Zoom and was permitted to make a statement to the court. The court next heard from the State and Mr. Syed's attorney before finding that the State had met the requirements under the vacatur statute and granting the State's motion to vacate Mr. Syed's convictions.[1] In accordance with Maryland Rule 4-333(i), the court ordered the State to schedule a date for a new trial or enter a nolle prosequi within 30 days. On October 11, the State entered a nolle prosequi after it received results from DNA testing which confirmed that Mr. Syed had been wrongfully convicted.

REASONS FOR GRANTING THE WRIT

A. Introduction

This case presents multiple issues of first impression. The Appellate Court's resolution of those issues, if left to stand, will result in the reinstatement of Mr. Syed's convictions and sentences when Mr. Syed, the State, and the circuit court agreed that his convictions lack integrity and should be vacated. However, how the issues are resolved will impact a much broader category of cases. As discussed below, the Appellate Court held, for the first time, that: (1) a court can nullify the

[1] Specifically, the court vacated Mr. Syed's convictions for first degree murder (Case No. 199103042), kidnapping (Case No. 199103043), robbery (Case No. 199103045), and false imprisonment (Case No. 199103046).

lawful and independent exercise of discretion by a State's Attorney to nol pros charges prior to final judgment; (2) a victim's representative, though not a party, has the right to appear in-person at a hearing at which the representative has no right to participate; (3) notice of the hearing to a victim's representative is deficient as a matter of law even when the representative does not express a wish to attend in-person until the day of the hearing; and (4) a victim's representative is entitled to reversal for a violation of the rights to notice and to appear in-person without having to show any possibility that the result of the proceeding might have been different. This Court is urged to grant certiorari to review the Appellate Court's resolution of each of these issues.

B. A lawfully entered nolle prosequi renders moot an appeal alleging procedural violations prior to the nolle prosequi.

Upon granting the motion to vacate Mr. Syed's convictions, the circuit court, in accordance with applicable law, instructed the State that it had up to 30 days to decide whether to retry him or dismiss the charges against him. Md. Rule 4-333(i) ("Within 30 days after the court enters an order vacating a judgment of conviction or probation before judgment as to any count, the State's Attorney *shall* either enter a nolle prosequi of the vacated count or take other appropriate action as to that count.") (emphasis added). The State's Attorney announced publicly her intention to nol pros if the results of DNA testing were exculpatory to Mr. Syed. Upon receiving exculpatory results, the State, with barely a week remaining in the 30-day period, entered a nolle prosequi. Thereafter, the Appellate Court *sua sponte* directed

Respondent to show cause why his appeal should not be dismissed as moot. The Court subsequently permitted the parties to address the issue of mootness in their merits briefs and, ultimately, held that the nolle prosequi did not render the appeal moot.

To reach the conclusion that the appeal is not moot, the Appellate Court engaged in a series of contortions to make inapposite case law fit what it called "the unique circumstances of this case." Slip op. at 34, 42. The court's reasoning is flawed for several reasons. Appropriating language from *Curley v. State*, 299 Md. 449 (1984), the court held that "the nol pros was entered with the purpose or 'necessary effect' of preventing Mr. Lee from obtaining a ruling on appeal regarding whether his rights as a victim's representative were violated." Slip op. at 41. *Curley* did not involve an appeal by the victim, however. At issue in *Curley* was how to calculate the 180-day period for trial under the predecessors to Rule 4-271 and Criminal Procedure Article § 6-103 when the State nol prosses charges against a defendant and then re-charges the defendant with the same offenses. While the ordinary rule is that the 180-day period begins anew with the new charging document, the Court explained, a different rule applies if the nol pros had the "purpose" or "necessary effect" of circumventing the requirements of the 180-day rule. 299 Md. at 462. According to the Court, in that limited circumstance, "the 180-day period will commence to run with the arraignment or first appearance of counsel under the first prosecution." *Id.*

Subsequent opinions have limited the *Curley* exception even further. As the

Court explained in *State v. Huntley*, 411 Md. 288 (2009), "a nol pros has the necessary effect of an attempt to circumvent the requirements of § 6-103(a) and Rule 4-271(a)(1) only 'when the alternative to the nol pros would be a dismissal of the case for failure to commence trial within 180 days.'" *Id.* at 293 n. 9 (quoting *State v. Brown*, 341 Md. 609, 618 (1996)). At the same time, the State acts with the purpose of evading the 180-day rule only if the nol pros "circumvent[ed] a ruling by an administrative judge (or his or her designee) which exercises control over the court's calendar, thus implicating the requirement of good cause for an extension of the 180-day requirement." *Id.* (citing *Jules v. State*, 171 Md. App. 458, 475-78 (2006)).

Far from announcing a rule that applies only to the "unique circumstances" of this case, application of the *Curley* exception would eliminate the State's authority to dismiss charges by moving to vacate convictions to correct an injustice. This is because nol prossing the charges following vacatur of a defendant's convictions will always have the effect of mooting an appeal by the victim. A victim alleging a violation of their rights has 30 days to note an appeal from the date the circuit court grants the motion to vacate. Md. Code, Crim. Proc. Art. § 11-103(b); Md. Rule 8-202(a). But the State also must act within 30 days to dismiss the charges if that is its intention. Md. Rule 4-333(i). Even if the victim notes an appeal the same day the court grants the vacatur motion and the State waits 30 days to enter a nolle prosequi, the appeal will not be briefed, argued, and decided in time to prevent it from becoming moot.

For different reasons, the "purpose" prong of the *Curley* exception does not apply to this case. The nolle prosequi here did not "circumvent[] a ruling" by a court, for example the denial of a request for a continuance or to exclude certain evidence. *Huntley*, 411 Md. at 293 n. 9. Rather, it was the circuit court, acting in accordance with Rule 4-333(i), that instructed the State that it had to decide whether to nol pros the charges within 30 days. Moreover, the State was transparent that it would dismiss the charges if DNA testing was exculpatory. That it entered the nolle prosequi on Day 22 rather than waiting until Day 30 provides no evidence of nefarious intent, as the Attorney General acknowledged at argument.

Finally, the Appellate Court's co-optation of the *Curley* exception reflects a basic misunderstanding of how the exception operates. The Appellate Court recognized that an entry of nolle prosequi renders an appeal moot unless it can be declared "void, and therefore ... a nullity." Slip op. at 34. But when a court applies the *Curley* exception, it does not nullify a nolle prosequi. Rather, the court conducts its assessment of the State's time to try the defendant without reference to the nol pros. If the court grants relief to the defendant, it does so by dismissing the *new* charges, not the original charges which the Court does not need to dismiss since, by virtue of the nol pros, they no longer exist.

In his dissenting opinion, Judge Berger dismantles the majority's reliance on two other cases, *State v. Simms*, 456 Md. 551 (2017), and *Hook v. State*, 315 Md. 25 (1989). As Judge Berger explains, *Simms* holds that the State may not enter a nolle prosequi after final judgment (*i.e.* after a defendant has been convicted and

sentenced). Here, however, the State nol prossed the charges before final judgment, so *Simms* does not apply. Meanwhile, *Hook* bars the State from nol prossing a lesser included offense under circumstances where it would be fundamentally unfair to the defendant because it forces the factfinder to convict the defendant of the greater offense or nothing at all. While a victim's representative should be treated with dignity and respect, Md. Declaration of Rights Art. 47, they have no corresponding right to a fair trial since it is the defendant and not the victim's representative who is the subject of prosecution.[2]

Assuming *arguendo* that the circuit court violated a right of the victim's representative to notice or to appear in-person, this at most made the order vacating Mr. Syed's convictions subject to reversal on appeal if not moot. It did not make the order "void *ab initio*" just as similar errors at a trial do not render the verdict a nullity. *Cottman v. State*, 395 Md. 729, 742 (2006). Once Mr. Syed's convictions were vacated, the State had unfettered discretion to dismiss the charges and an obligation to decide whether to exercise that discretion within 30 days. Under these circumstances, the Appellate Court's holding that a nolle prosequi was a nullity is unprecedented and unjustified.

C. Zoom attendance satisfies a victim's representative's right to attend a vacatur hearing.

Whether a victim's representative's right of attendance may only be satisfied

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[2] *Antoine v. State*, 245 Md. App. 521 (2020) is also not to the contrary. Mootness was not an issue in *Antoine*.

by in-person attendance, if requested, is an issue of first impression as the Appellate Court acknowledges. Slip Op. at 55. In reaching its conclusion that attendance by Zoom satisfied Mr. Lee's right of attendance, the circuit court noted that remote proceedings are commonplace, that the court frequently received victim impact via Zoom, and that "Zoom was a practical and serviceable method that courts had been using to allow remote participation in court proceedings." Slip op. at 13 (Berger, J., dissenting). Despite finding that Mr. Lee did not have the right to participate in the hearing, and despite legislative silence on the issue, the Appellate Court held that remote attendance did not satisfy his right of attendance because the parties attended in-person.

Unless its holding is limited, arbitrarily, to victims' representatives, the Appellate Court has announced a new rule of law that *anytime* a court requires a party or, as here, a non-party, to appear remotely when other participants are in-person, the error is *per se* reversible. The number of cases impacted by such a rule in just the past few years when our courts conducted hybrid hearings is likely quite high. But even post-pandemic, the impact is staggering. The court's holding conflicts with post-pandemic practice and the newly approved rules recognizing courts' authority to require remote participation in certain proceedings over the objection of the parties. Supreme Court of Maryland, 214th Rules Order, at 396-400 (April 21, 2023). Additionally, the holding ignores the distinction between parties and non-parties and unnecessarily restricts the discretion of trial judges. Tellingly, even when consent of the parties is required for remote participation, the new rules

make no provision for objections by non-parties, including victims' representatives. This distinction is sound because it hinges on if the parties are offering evidence which the factfinder must assess, a practice aided by physical presence. In contrast, the law limits the victim's representative's role to observer and not participant in a vacatur proceeding. Under the Appellate Court's opinion, compliance with the rules will invariably lead to reversible error.

In his dissent, Judge Berger began his analysis of the victim's representative's right of attendance from the premise that § 8-301.1 of the Criminal Procedure Article provides the representative with the right to attend but not participate, a point on which the Majority and Dissent agree. Because the representative may not participate as a party, neither his interests nor the factfinding process are compromised by his attendance via Zoom. By contrast, the Majority found that there was "value" for the victim to attend in-person, Slip op. at 56, without explaining that value or even the harm that befell the victim by attending remotely.

In finding that there was no showing that it was necessary to hold the hearing that day and the related conclusion that there was no compelling reason to require the victim to appear remotely, the Appellate Court also failed to weigh Mr. Syed's liberty interests in the extraordinary circumstance where the State and defense agreed that he had been wrongfully incarcerated for over 23 years. Prison is a dangerous environment that poses myriad risks to its residents. Where the State and defense agree that an individual has been wrongfully deprived of his liberty for more

than two decades, urgency is appropriate and is, at a minimum, an appropriate factor to consider in the balancing of interests.

Victims' representatives are entitled to dignity and respect and remote attendance can be consistent with those rights. The Appellate Court's *per se* rule that no court may require remote participation by a party or nonparty will have disastrous consequences for the orderly administration of justice in Maryland's courts.

D. Notice to a victim's representative is sufficient where the State complied with all statutory and rules-based notice requirements.

For the first time, the Appellate Court concluded that notice to a victim's representative was not sufficient despite the State's compliance with all statutory and rules-based notice requirements. Mr. Lee received the notice to which he was entitled. Criminal Procedure Article § 8-301.1(d)(1) references §§ 11-104 and 11-503 and requires the State to notify the victim's representative before a hearing. Section 11-104(f)(1) requires prior notice of each proceeding. Section 11-503(a)(7) likewise requires notice of postsentencing proceedings. Rule 4-333(g)(2), meanwhile, requires the State to provide the victim's representative with written notice of the vacatur hearing that "contain[s] a brief description of the proceeding and inform[s] the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing." The State complied with these requirements by calling, emailing, and texting Mr. Lee to notify him of the date, time, and location of the hearing and facilitating his attendance by providing a Zoom

option.

The Appellate Court's holding that Mr. Lee did not receive sufficient notice is predicated on its determination that he had a right to attend the hearing in-person. Even though Mr. Lee informed the circuit court, for the first time, that he wanted to attend in-person 30 minutes before the afternoon hearing was scheduled to begin, the Appellate Court reasoned that he did not receive enough notice for him to arrange to fly from Los Angeles to Baltimore. By contrast, in his dissent, Judge Berger concluded that the notice provided to Mr. Lee was sufficient based on a fact-specific analysis that considered the limited guidance provided by the applicable statute and rules, the scope of the representative's rights, and the actions taken by the State to facilitate his attendance. The Appellate Court's holding to the contrary depends on providing the victim's representative with greater rights than have been provided by the General Assembly and this Court and will have far-reaching implications beyond this case.

E. Like other litigants, a victim's representative must show prejudice on appeal.

"It is the policy of this Court not to reverse for harmless error and the burden is on the appellant in all cases to show prejudice as well as error." *Crane v. Dunn*, 382 Md. 83, 91 (2004). So firmly established is this principle that the Maryland Rules provide that this Court "may consider whether the error was harmless or non-prejudicial even though the matter of harm or prejudice was not raised in the petition or in a cross-petition." Md. Rule 8-131(b)(1). Here, however, the Appellate Court

reversed and reinstated Mr. Syed's convictions without requiring Respondent to show any possibility that the results of the vacatur hearing would have been different had Respondent appeared in-person. This is so notwithstanding that "a violation of a criminal defendant's right to be present is [subject to] harmless error analysis." *State v. Hart*, 449 Md. 246, 262 (2016). And it is so even though other courts considering the issue have held that improperly requiring a criminal defendant to appear remotely is not reversible error if the defendant was not prejudiced. *See Hager v. United States*, 79 A.3d 296, 302 (D.C. 2013); *Gibson v. Commonwealth*, 2021 WL 3828558, *4 (Ky. Aug. 26, 2021); *People v. Anderson*, __ N.W.2d __, 2022 WL 981299, *7 (Mich. Ct. App. March 31, 2022); *State v. Taylor*, 198 N.E.3d 956, 966-67 (Ohio Ct. App. 2022); *State v. Byers*, 875 S.E.2d 306, 318-19 (W.Va. 2022).

The Appellate Court's omission is consequential. In line with the court's reported opinion, victims' representatives can argue that violations of their rights – unlike those of even criminal defendants – are not subject to harmless error analysis. At the same time, any party or non-party participant may now argue that they have an absolute right to be present in-person for a proceeding. Not only would this undermine the rules for remote participation that this Court recently adopted as part of the 214th Rules Order, but it would also call into question countless remote proceedings conducted during the pandemic. In reviewing the Appellate Court's opinion, this Court should take up as well the question of whether the victim's representative must show prejudice.

Respectfully submitted,

/s/ Erica J. Suter

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Font: Times New Roman 13

CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112

1. This petition contains 3,711 words.

2. This petition complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Erica J. Suter

Erica J. Suter

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May, 2023, a copy of the foregoing in the captioned case was sent via U.S. mail and/or courier service to:

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/s/ Erica J. Suter

Erica J. Suter

APPENDIX

12:24:57 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                          CASE INQUIRY  12:24
 CASE 199103042                      DCM TRACK C DATE 060399    FELONY DRUG INIT
CASE 199103042 STATUS C DATE 101122 PREV ST A 101122 CODEF NO  CHANGE 111722
 DEF SYED, ADNAN                     ID 928334  SID 002005477 R: X S: M DOB 052180
   ADDRESS 7034 JOHNNYCAKE RD                                  BALTIMORE  MD 21207
   DOA 000000 CMPL 8B5801    PHYS LOC              CASE LOC DOC 101922
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001 000 C USER MUR01 CODE 2 0900          MURDER-FIRST DEGREE     DISP NP   101122
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                PLEA       DATE              VERDICT       DATE
      SENTENCE  TYPE       DATE         TIME                 BEG         SUSP
                PROBATION  TIME              TYPE           COST        FINE
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
CONV 010100        CASE HAS BEEN CONVERTED FOR DCM UPGRADE ON 20010330
CONV 010100        CASE HAS BEEN CONVERTED FOR M/Y2K UPGRADE ON 19990423
CASI 041399   CGS CASE ADDED THROUGH ON-LINE ON THIS DATE  990414
COMM 041399   CGS INDICTMENT FILED

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12:24:58 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCN C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 041399 CGS FILED ASA - WASH, VICKI , ESQ 868429
COMM 041499 CVS COMMITMENT PENDING HEARING - HELD WITHOUT BAIL
COMM 042199 CEM CSET EM
COMM 051399 CHT MOTION FOR STAY OF ORDER DENYING MOTION TO QUASH A
COMM 051399 CHT SUBPOENA REGARDING CONFIDENTIAL SCHOOL RECORDS FLD
COMM 051399 CHT STATE'S RESPONSE TO MOTION TO QUASH SUBPEONA FLD
COMM 051399 CHT MOTION TO QUASH A SUBPOENA REGARDING CONFIDENTIAL SCHOOL
COMM 051399 CHT RECORDS SUBPOENAED BEFORE THE GRAND JURY FLD
COMM 051799 CHT ENTRY OF APPEARANCE FLD
COMM 051799 CHT DEFT'S OMNIBUS MOTION UNDER RULE 4-252 FLD
COMM 052599 SCJ STATE'S MOTION TO DISQUALIFY DEFENSE ATTNY M CRISTINA
COMM 052599 SCJ GUTIERREZ, FD - CC: JUDGE BROWN, 6/3/99, PT 14
COMM 052599 SCJ MOTION TO QUASH, FD - CC: JUDGE BROWN, 6-3-99, PT 14
HCAL 060399 1 S8A P14;0930;330B;ARRG; ;TSET; ;BROWN, R.W. ;849
COMM 060399 S8A TSET FOR 10/13/99 PT 27 DEFT. SERVED
COMM 060399 S8A FILED ASA - MURPHY, KATHLEEN , ESQ 599824
TRAK 060399 CHR ASSIGNED TO TRACK C - 120 DAYS ON 06/03/1999
COMM 060899 CLS PMOT RESET FROM ADD-ON SUBMITTED BY LAW CLERK PT 11. LS
COMM 061199 CBD MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING, 07-09-99

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P/N

12:24:58 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 061199 CBD CC MITCHELL FLD
FILE 061199 CBD FILED ADF — MILLEMANN, MICHAEL , ESQ
COMM 061499 CEM CSET EM
COMM 061499 S8A STATE'S MOTION TO EXTEND TIME TO FILE DISCOVERY FLD
COMM 061499 S8A ORDER/MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING
COMM 061499 S8A EXTENDED TO AND INCLUDING 06/28/99 STATE SHALL FILE ITS
COMM 061499 S8A PLEADING BY 07/06/99 PER JUDGE MITCHELL
COMM 062899 CGS DEFT'S, RESPONSE TO STATES MOTION TO DISQUALIFY DEFENSE
COMM 062899 CGS ATTORNEY M CHRISTINA GUTIERREZ
COMM 063099 CHT CC JUDGE MITCHELL 07/05/99 PT11 FLD
COMM 070199 CHT MOTION TO COMPEL DISCOVERY FLD
COMM 070199 CHT ENTRY OF APPEARANCE FOR KEVIN URICK (875151) STATE'S
COMM 070199 CHT REQUEST FOR DISCOVERY STATE'S DISCLOSURE MOTION FOR JOINT
COMM 070199 CHT TRIAL OF DEFT'S & OFFENSES NOTICE OF PLEA BARGAIN POLICY
COMM 070199 CHT MOTION TO COMPEL PRODUCTION OF TANGIBLE EVIDENCE -
COMM 070299 CHT STATE'S REPLY TO DEFT'S RESPONSE TO STATE'S MOTION TO
COMM 070299 CHT DISQUALIFY DEFENSE ATTORNEY M CRISTINA GUTIERREZ FLD
COMM 070799 CHT STATE'S MOTION FOR PROTECTIVE ORDER FLD
COMM 070799 S8A MOTION IN LIMINE FLD

12:24:59 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 070899 CBD AMENDED STATE'S DISCLSURE FILED
HCAL 070999 1 CHT P11;0300;230 ;PMOT;HR;SUBC; ;MITCHELL, D.B. ;842
COMM 070999 CHT STATE'S MOTION TO HAVE THE APPEARANCE OF C. GUITERRIEZ
COMM 070999 CHT STRICKEN HEARD AND HELD SUB-CURIA PENDING COURT'S DECISION -
COMM 071999 CHT LETTER REC - MOTION TO DISQUALIFY M CRISTINA GUTIERREZ FLD
COMM 072199 SCJ ADNAN SYED'S SUPPLEMENTAL RESPONSE BASED ON STATE'S DIS-
COMM 072199 SCJ CLOSURES RECEIVED BY THE DEFT SUBSEQUENT TO THE JULY 9TH HRG
COMM 072199 SCJ ON THE STATE'S MOTION TO DISQUALIFY HIS COUNSEL OF CHOICE,FD
COMM 072199 SCJ REQUEST FOR HEARING, FD
COMM 072199 SCJ AMENDED STATE'S DISCLOSURE, FD
COMM 072199 SCJ AFFIDAVIT OF M. CRISTINA GUTIERREZ, FD
COMM 072199 SCJ MOTION FOR LIMITED DISCLOSURE OF THE GRAND JURY TESTIMONY
COMM 072199 SCJ AND THE SEALED HRG BEFORE THE GRAND JURY JUDGE, FD
COMM 072199 SCJ TRANSCRIPT EXCERPT 7/9/99, FD
COMM 072299 CGS CORRESPONDENCE FROM ATTORNEY M. CHRISTINA GUTIERREZ
COMM 072299 CGS MOTION FOR LIMITED DISCLOSURE OF THE GRAND JURY TESTI-
COMM 072299 CGS MONY AND THE SEALED HEARING BEFORE THE GRAND JURY JUDGE
HCAL 072399 1 S8A P11;0930;230 ;HEAR; ;TSET; ;MITCHELL, D.B. ;842
COMM 072399 S8A STATE'S MOTION TO DISQUALIFY C GUTIERREZ AS DEFENSE

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 072399 S8A COUNSEL REARD AND DENIED
COMM 080299 CGS AMENDED STATE'S DISCLOSURE FD
COMM 080299 CBD AMENDED STATE'S DISCLOSURE FILED
COMM 081799 CGS DEFENDANTS ADNAN SYED'S RESPONSE TO STATE'S MOTION FOR
COMM 081799 CGS PROTECTIVE ORDER FD
COMM 082399 S8A AMENDED STATE'S DISCLOSURE FLD
COMM 090399 CGS AMENDED STATE'S DISCLOSURE FD
COMM 090399 S8A AMENDED STATE'S DISCLOSURE FILED
COMM 090399 S8A AMENDED STATE'S DISCLOSURE FILED
COMM 090799 CGS DEFT'S. RESPONSE TO STATE'S MOTION IN LIMINE AND
COMM 090799 CGS RENEWED MOTION TO COMPEL CC ASA KEVIN URICK & JUDGE QUARLES
HCAL 090899 CHT P27;0930;406 ;JT ; ;OTHR; ;QUARLES, WILLIA;SA9
COMM 090899 CHT DEFT'S MOTION RE: DISCOVERY MATERIAL HEARD AND HELD
COMM 090899 CHT SUB-CURIA - (TO BE SET BY COURT PT27)
COMM 091399 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 091499 S8A MEMORANUM OPINION AND ORDER
COMM 092499 CGS AMENDED STATE'S DISCLOSURE FD
COMM 092499 CGS DEFT. ADNAN MASUD SYED'S MOTION FOR REVIEW OF NO BAIL
COMM 092499 CGS STATUS BASED ON CHANGE OF CIRCUMSTANCES

12:25:00 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 092799 S8A ORDER/ORDERED THAT TRE DEFT, SYED'S MOTIONS SUBMITTED UNDER
COMM 092799 S8A SEAL ON 09/24/99 SHALL REMAIN SEALED PER, JUDGE QUARLES
COMM 100199 S8A STATE'S REQUEST FOR ADMISSION OF EXCERPTS OF VICTIM DIARY FD
COMM 100199 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 100699 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 100899 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101299 CJF MOTION FOR CONTINUANCE FLD
COMM 101299 CGS AMENDED STATE'S DISCLOSURE
COMM 101299 CGS STATE'S OPPOSITION TO THE DEFT'S. MOTION FOR CONTINUANCE
COMM 101299 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101299 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101399 S8A REFERRED TO ADMIN. COURT
HCAL 101399 S8A P27;0900;406 ;JT ; ;MOVE; ;QUARLES, WILLIA;8A9
HCAL 101399 GEM P27;0900;406 ;JT ; ;POST;PX ;QUARLES, WILLIA;8R9
COMM 101499 SCJ CONT'D TO 10/18/99, PT 27 AT 9:30 AM
COMM 101599 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101599 CJF AMENDED STATE'S DISCLOSURE FLD
COMM 101899 S8A REFERRED TO ADMIN. COURT
COMM 102199 CEM CSET EM JT

NEXT PAGE P/N PAGE 006

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	102199	CJF					POSTPONEMENT FORM-WAIVER OF MD RULE 4-271 REQUIREMENTS FLD
COMM	102899	CJF					AMENDED STATE'S DISCLOSURE FLD
COMM	110999	CJF					AMENDED STATE'S DISCLOURE FLD
COMM	111899	S8F					AMENDED STATE'S DISCLOSURE FILED
COMM	112299	CBD					EX PARTE MOTION FOR THE ISSUANCE OF A SUBPOENA FOR
COMM	112299	CBD					TANGIBLE EVIDENCE BEFORE TRIAL & OTHER APPROPRIATE RELIE FD
COMM	112299	CBD					ORDER OF COURT GRANTING EX PARTE MOTION FOR THE
COMM	112299	CBD					ISSUANCE OF A SUBPOENA FOR TANGIBLE EVIDENCE FILED
COMM	112499	CSJ					AMENDED STATE'S DISCLOSURE FILED
COMM	120199	CJF					EX-PARTE MOTION FOR THE ISSUANCE OF A SUBPOENA FOR TANGIBLE
COMM	120199	CJF					EVIDENCE BEFORE TRIAL AND OTHER APPROPRIATE RELIEF FLD
COMM	120199	CJF					ORDER, FLD
COMM	120199	CBD					MOTION FIR A JURY VIEWING OF THE CRIME SCENE, JUDGE
COMM	120199	CBD					QUARLES PT-27, 10-03-99
COMM	120399	CGS					AMENDED STATE'S DISCLOSURE FD
HCAL	120399	1 CHT	P27	0900	406	JT	;CONT; ;QUARLES, WILLIA;8A9
COMM	120399	CHT					RESET ON 12/07/99 PT27
COMM	120499	CBD					AMENDED STATE'S DISCLOSURE FILED
HCAL	120899	1 CHT	P27	0930	406	JT	;CONT; ;QUARLES, WILLIA;8A9

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	120899					CHT VOIR DIRE ADMINISTERED
COMM	120899					CHT CONT UNTIL 12/09/99
COMM	120899					CHT DEFT PLEAS NOT GUILTY
HCAL	120999	1	SCJ	P27	0930	406 ;JT ; ;CONT; ;QUARLES, WILLIA;8A9
COMM	120999		SCJ			NEW PANEL SWORN ON VOIR DIRE; JURY SWORN, ETC, STATE'S
COMM	120999		SCJ			MOTION RE: BATSON, HEARD AND DENIED. CASE NOT CONCLUDED TO
COMM	120999		SCJ			RESUME ON 12/10/99, PT 27 AT 2:00 PM. DEFT PLEA NOT GUILTY
HCAL	121099	1	S8A	P27	0930	406 ;JT ; ;CONT; ;QUARLES, WILLIA;8A9
COMM	121099		S8A			STATE'S MOTION FOR SEQUESTRATION GRANTED:CASE CONT. TO
COMM	121099		S8A			TO 12/13/99 PT 27
HCAL	121399	1	SCJ	P27	0930	406 ;JT ; ;CONT; ;QUARLES, WILLIA;8A9
COMM	121399		SCJ			DEFT PLEA NOT GUILTY
HCAL	121499	1	S8A	P27	0930	406 ;JT ; ;CONT; ;QUARLES, WILLIA;8A9
COMM	121499		S8A			CONT. TO 12/15/99 PT 27
COMM	121599		S8A			DEFT. MOTION FOR MISTRIAL HEARD AND GRANTED/MOVE TO ADMIN.
COMM	121599		S8A			COURT
COMM	121599		S8A			NOT GUILTY PLEA ENTERED
COMM	121699		CPH			RESET PE
COMM	123099		S8A			AMENDED STATE'S DISCLOSURE FILED

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 010700 CHT MOTION IN LIMINE TO EXCLUDE TESTIMONY OF SHARON WATTS FLD
COMM 010700 CHT DEFT'S MOTION FOR A BRADY HEARING FLD
HCAL 011000 1 CHT P09;0930;339 ;JT ; ;CONT; ;HEARD, WANDA KE;8B7
COMM 011000 CHT MOTION FOR RECONSIDERATION OF BAIL HEARD AND CONT
COMM 011000 CHT TO 01/11/00 PT09
COMM 011100 CHT FILE IN COURT
HCAL 011100 CHT P09;0930;339 ;JT ; ;OTHR; ;HEARD, WANDA KE;8B7
COMM 011100 CHT MOTION FOR RECONSIDERATION OF BAIL HEARD AND DENIED
COMM 011100 CHT CASE SET FOR TRIAL 01/14/00 PT09
COMM 011300 S8A STATE'S OPPOSITION TO DEFT. MOTION FOR A BRADY HEARING FLD
COMM 011300 S8A STATE'S OPPOSITION TO DEFT. MOTION IN LIMINE TO EXCLUDE
COMM 011300 S8A TESTIMONY OF SHARON WATTS FLD
HCAL 011400 1 CHT P09;0900;339 ;JT ; ;CONT; ;HEARD, WANDA KE;8B7
COMM 011400 CHT MOTION IN LIMINE TO EXCLUDE TESTIMONY OF SHARON WATTS
COMM 011400 CHT HEARD AND HELD SUB-CURIA
COMM 011400 CHT MOTION FOR BRADY HEARING HEARD & HELD SUB-CURIA
COMM 011800 S8A ORDER/MOTION IN LIMINE BE AND IS HEREBY GRANTED UNDER TERMS
COMM 011800 S8A MS WATTS MAY TESTIFY TO HER PERSONAL OBSERVATIONS OF DEFT.
COMM 011800 S8A ONLY/ORDER THAT THE MOTION FOR BRADY HEARING IS DENIED

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE		OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM 011800		S8A				PER, JUDGE HEARD
COMM 011800		S8A				MEMORANDUM OPINION FLD
COMM 011800		S8A				AMENDED STATE'S DISCLOSURE FILED
HCAL 012100	1	SCJ	P09	0930	339	;JT ; ;CONT; ;HEARD, WANDA KE;8B7
COMM 012100		SCJ				ARRAIGNED & SUBMITS UNDER PLEA OF NOT GUILTY. JURY TRIAL
COMM 012100		SCJ				PRAYED. JURY SWORN ON VOIR DIRE. DEFT PLEA NOT GUILTY
HCAL 012400	1	CHT	P09	0930	339	;JT ; ;CONT; ;HEARD, WANDA KE;8B7
COMM 012400		CHT				JURY SELECTED AND SWORN
COMM 012400		CHT				CONT TO 01/27/00 PT09
COMM 012400		CHT				DEFT PLEAS NOT GUILTY
HCAL 012700	1	CHT	P09	0930	339	;JT ; ;CONT; ;HEARD, WANDA KE;8B7
COMM 012700		CHT				MOTION TO SEQUESTER WITNESS HEARD AND GRANTED
COMM 012700		CHT				CASE CONT TO 01/28/00 PT09
COMM 012700		CHT				DEFT PLEAS NOT GUILTY
COMM 012700		CHT				DEFT'S REQUEST TO DISMISS PANEL HEARD & DENIED
COMM 012700		CHT				DEFT'S MOTION TO HAVE JURY REVIEW CRIME SCENE HEARD &
COMM 012700		CHT				RESERVED -
COMM 012700		CHT				FILE IN COURT
HCAL 012800	1	CHT	P09	0930	339	;JT ; ;CONT; ;HEARD, WANDA KE;8B7

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

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EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 012800    CHT CASE CONT TO 01/31/00 PT09
COMM 012800    CHT FILE IN COURT
HCAL 013100 1  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 013100    CHT CASE CONT TO 02/01/00 PT09 AT 9:30 AM
COMM 013100    CHT DEFT PLEAS NOT GUILTY
HCAL 020100 1  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 020100    CHT CASE CONT TO 02/02/00 PT09
COMM 020200    S8A CONT. TO 02/03/00 PT 09 DEFT. PLEA NOT GUILTY
COMM 020400    CHT CASE CONT TO 02/08/00 PT09
COMM 020400    CHT DEFT PLEAS NOT GUILTY
HCAL 020800 1  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 020800    CHT MOTION IN LIMINE TO PRECLUDE ASKING ABOUT ALL PERFORM
COMM 020800    CHT HEARD & GRANTED - NO FILE IN COURT
HCAL 020800    CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 020800    CHT DEFT PLEAS NOT GUILTY -
HCAL 020900 1  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 020900    CHT MOTION FOR MISTRIAL HEARD AND DENIED
COMM 020900    CHT MOTION THAT DEFT NOT BRING UP POSSIBLE MISTAKES IN FRONT
COMM 020900    CHT OF JURORS HEARD AND DENIED
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

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EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 020900   CHT MOTION TO STALK MR WARANOWITZ TESTIMONY HEARD AND DENIED
COMM 020900   CHT JUROR #6 TO BE REPLACED WITH ALT #1 -
HCAL 021000 1 CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021000   CHT MOTION TO COMPEL OF DISCOVERY HEARD & DENIED - & IF THERE
COMM 021000   CHT ARE ANY NOTES THEY SHOULD BE BROUGHT TO THE JUDGE. FIC
HCAL 021000   CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021000   CHT MOTION TO QUESTION WITNESS OUTSIDE OF MR. URICK PRESENCE
COMM 021000   CHT (VOIR DIRE) ON ROW WITNESS GOT COUNSEL HEARD & DENIED
COMM 021000   CHT MOTION TO HAVE MR URICK TO BE MADE A WITNESS FOR THE DEFENSE
COMM 021000   CHT HEARD AND HELD UNTIL DEFENSE GIVES GOOD REASON FOR ACTION
HCAL 021100 1 CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021100   CHT MOTION TO HAVE MR URICK AS A WITNESS HEARD & DENIED -
COMM 021100   CHT MOTION TO HAVE NOTES OF POLICE INTERVIEW DURING NON-
COMM 021100   CHT RECORDED INTERVIEW HEARD & GRANTED -
COMM 021100   CHT MOTION TO STRIKE MR WILD'S TESTIMONY HEARD & DENIED -
COMM 021100   CHT BUT DEFT CAN BRING UP CREDIBILITY OF WITNESS *WILD* -
COMM 021100   CHT MR. WILDS IS TO BE RESTRICTED TO BE KEPT AWAY FROM JURORS -
COMM 021100   CHT MOTION TO HAVE VIDEO TAPE OF MR. WILDS ARRAIGNMENT OR HRG
COMM 021100   CHT WITH MCCURDY, JUDGE CASE #299250001 HEARD & GRANTED -
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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  928334  COD N DCM C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 021100    CHT MOTION FOR FULL DISCLOSURE OF HOW MR WILDS GOT LAWYER HEARD
COMM 021100    CHT AND DENIED - MOTION TO HAVE MR WILDS LAWYER TO COME IN FOR A
COMM 021100    CHT HRG ON HOW SHE WAS HIRED HEARD & GRANTED -
COMM 021100    CHT REQUEST TO HAVE NO ONE SPEAK TO MR WILDS LAWYER ABOUT CASE
COMM 021100    CHT HEARD & GRANTED - MOTION TO LIMIT THE LEADWAY DEFT HAS BEEN
COMM 021100    CHT GIVEN HEARD & DENIED - MOTION TO ALLOW DEFT TO SAY GETTING
COMM 021100    CHT THE LAWYER FOR MR WILDS HEARD & DENIED - (IS A PRIVILEGE)
COMM 021100    CHT REQUEST AN ORDER TO NO ONE TALK TO MR WILDS ABOUT HOW HE
COMM 021100    CHT GOT HIS LAWYER HEARD AND GRANTED -
COMM 021100    CHT MOTION OF ILLIMINE THAT THE LINE OF QUESTIONING ON MR WILDS
COMM 021100    CHT LAWYER HEARD & GRANTED -
HCAL 021400 I  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021400    CHT MOTION TO ELIMINATE THE LINE OF QUESTIONING ABOUT THE
COMM 021400    CHT LAWYER HEARD AND GRANTED. FIC
HCAL 021500 I  CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021500    CHT CASE CONT TO 02/16/00 PT09
COMM 021500    CHT DEFT'S MOTION IN LIMINE TO PRECLUDE ANY QUESTIONS ALOT
COMM 021500    CHT DOUBLE HEAR SAY BY J.. PUSATERI HEARD AND DENIED
HCAL 021500    CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  928334  COD N DCM C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 021500    CHT DEFT'S MOTION IN LIMINE TO PRECLUDED I.D. OF VOICE ON THE
COMM 021500    CHT PHONE HEARD AND DENIED -
HCAL 021600 1 CHT P09;0930;523 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021600    CHT CASE CONT TO 02/17/00 PT09
COMM 021600    CHT DEFT PLEAS NOT GUILTY
HCAL 021700 1 CHT P09;0930;523 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021700    CHT CASE CONT TO 02/18/00 PT09
HCAL 021800 1 CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 021800    CHT AT THE END OF STATE'S CASE DEFT'S MOTION FOR JUDGEMENT OF
COMM 021800    CHT ACQUITTAL HEARD & DENIED
COMM 021800    CHT CASE CONT TO 02/22/00 PT09 - DEFT PLEAS NOT GUILTY
HCAL 022200 1 CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7
COMM 022200    CHT STATE'S MOTION IN LIMINE RE: PRIOR CONVICTIONS OF MR SELLERS
COMM 022200    CHT INDECENT EXPOSURE HEARD & GRANTED IN PART & DENIED IN PART
COMM 022200    CHT STATE'S MOTION IN LIMINE TO EXCLUDE 9/7/99 VIDEO TAPE  HEARD
COMM 022200    CHT AND GRANTED - STATE'S MOTION TO EXCLUDE TESTIMONY OF
COMM 022200    CHT ELIZABETH JULIAN HEARD AND DENIED -
COMM 022200    CHT CASE CONT TO 02/23/00 PT09 AT 9:30 AM -
HCAL 022300 1 CHT P09;0930;339 ;JT  ;  ;CONT;   ;HEARD, WANDA KE;8B7

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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/	EVENT COMMENT
COMM	022300		CHT					STATE'S MOTION IN LIMINE TO EXCLUDE THE TESTIMONY
COMM	022300		CHT					OF ELIZABETH JULIAN HEARD AND GRANTED
COMM	022300		CHT					CASE CONT TO 02/24/00 PT09 - DEFT PLEAS NOT GUILTY
HCAL	022400	1	CHT	P09;0930;339	;JT	;	;CONT;	;HEARD, WANDA KE;8B7
COMM	022400		CHT					AT THE CLOSE OF THE ENTIRE CASE DEFT'S RENEWED MOTION FOR
COMM	022400		CHT					JUDGEMENT OF ACQUITTAL HERD AND DENIED
COMM	022400		CHT					CASE CONT TO 02/25/00 PT09
COMM	022500		CHT					DISPO HELD SUB-CURIA
COMM	022500		CHT					RESET FOR 04/05/00 PT09
COMM	022500		CHT					ISSUE JAIL CARD - (FILE IN COURT)
HCAL	022500	1	CHT	P09;0930;339	;DISP;JT;SUBC;			;HEARD, WANDA KE;8B7
HCAL	022500		SCX	P09;0900;400	;JT	;JT;SUBC;		;HEARD, WANDA KE;8B7
COMM	030200		CLS					DSET FROM COURT DOCKET 022500. LS
COMM	030600		S8A					MOTION FOR NEW TRIAL FLD
HCAL	040500		S8A	P09;0930;339	;DISP;	;POST;XYZ;		HEARD, WANDA KE;8B7
COMM	040500		S8A					DEFT. MOTION TO STRIKE THE APPEARANCE OF M CHRISTINA
COMM	040500		S8A					GUITERREZ HEARD AND GRANTED/RSET FO R06/06/00 PT 09
COMM	040500		S8A					PSI REQUEST
COMM	052300		CDD					DIVISION OF PAROLE AND PROBATION INVESTIGATION

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  928334  COD N DCM C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
HCAL 060600 1 CHT P09;0930;339 ;DISP;DS;JUDG;   ;HEARD, WANDA KE;8B7
CCAS 060600   CHT CASE CLOSED - ALL COUNTS DISPOSED Q226
COMM 060600   CKS ******ASSIGNED KATHY POOLE-APPEAL CLERK-DUE 8-5-00
ERRC 060600   CMS APPL;APPD;060600;ERRC
CCAS 060600   CMS CASE CLOSED  Q227
H001 060600 , CNN P NG 20000225;V G    20000225;S 20000606;T LIFE
H001 060600 - CNN B 19990228;SP         ;P              ;F       ;C
HCAL 060600 1 SCY P09;0900;400 ;JT  ;JT;JUDG;   ;HEARD, WANDA KE;8B7
HCRD 060600   SNL 001;MUR01;2 0900       ;SENT;20000606;ACTV FOR FURTHER PROC
H001 060600   SNL P NG 20000225;V G    20000225;S 20000606;T LIFE;    NC
H001 060600   SNL B         ;SP         ;P              ;F       ;C
HCRD 060600   SNL 002;MUR05;1 0999       ;VNRG;20000606;ACTV FOR FURTHER PROC
COMM 070600   CKS RECEIPT FROM ACCOUNTING FOR FEE'S NO. Q2876.
COMM 072800   CSL MOTION FOR MODIFICATION OF SENTENCE (HEARD J)
COMM 080200   CBD ORDER/DEFT'S MOTION FOR RECONSIDERATION OF SENTENCE
COMM 080200   CBD IT IS 02ND DAY OF AUGUST, 2000, ORDERED THAT THE MOTION
COMM 080200   CBD FOR RECONSIDERATION OF SENTENCE BE AND ARE HEREBY DENIED
COMM 080200   CBD PER JUDGE WANDA KEYS HEARD FILED
COMM 080300   CKS TRANSCRIPT OF PROCEEDINGS DATED 1-10-00 AND 6-6-00 FROM
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART TIME ROOM REAS / EVENT COMMENT
COMM 080300	CKS	DELORES HAY OFFICAL COURT REPORTER-AMOUNT $232.50.
ACAS 082800	CMS	ACTIVATED FOR ERROR CORRECTION
CCAS 082800	CMS	CASE CLOSED - ALL COUNTS DISPOSED Q226
APPL 082800	CMS	APED;APPEAL TO COURT SPECIAL APPEAL FILED
COMM 082800	CMS	******ENTRY OF APPEAL FILED ON 8-28-00 IS INCORREECT.
COMM 082800	CMS	CORRECT DATE APPEAL FILED IS 6-6-00.....
COMM 100300	CSG	CHRISTOPHER METCALF, TURNED IN TRANSCRIPTS FOR THIS CASE.
COMM 103000	CKS	TRANSCRIPT OF PROCEEDINGS DATED 2-9,10,1-00
COMM 122800	CSG	EXTENSION OF TIME TO FILE TRANSCRIPT WITH CLERK ON 12-26-00
COMM 122800	CSG	AND TRANSMIT RECORD BY 02-10-01.
COMM 021501	CSG	EXTENSION OF TIME TO FILE TRANSCRIPT WITH CLERK ON 02-12-01
COMM 021501	CSG	AND TO TRANSMIT RECORD BY 03-20-01, GRADET, CLERK OF COURT
COMM 033001	CKS	EXTENSION OF TIME 4-23-01, GRADE7, CLERK CT.
COMM 042001	CKS	TRANSCRIPT OF PROCEEDINGS DATED 12-14-99, FROM CHARLES
COMM 042001	CKS	MADDEN OFFICAL COURT REPORTER, AMOUNT $1,140.00.
COMM 051401	CSG	PATRICIA TRIKERIOTIS, TURNED IN A TRANSCRIPT FOR THIS CASE.
COMM 113001	CKS	EXTENSION OF TIME 12-3-01, GRADET, CLERK CT.
COMM 120301	CKS	ORIGINAL PAPERS FORWARDED TO COSA VIA CERTIFED MAIL
COMM 120301	CKS	7000 0600 0022 4693 3985, 7000 0600 0022 4693 3985, 7000

12:25:04 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	120301	CKS	0600	0022	4693	3978, (4) BINDERS, ((4) ENVELOPES EXHIBITS
COMM	120301	CKS				(1) LARGE BOX TRANSCRIPTS. **-***(3) LARGE BOXES
COMM	120401	CSG				RECEIPT FOR TRANSCRIPT OF RECORD RECEIVED FROM COSA
COMM	012802	CKS				LETTER FROM COSA REQUESTING THE STAR 120.
COMM	012802	CKS				THE ORIGINAL STAR 120 WAS FORWARDED WHEN CASE WAS TRANSMITTD
COMM	012802	CKS				A 2ND COPY WILL BE FORWARDED TODAY.
COMM	050703	CSG				PETITION FOR WRIT OF CERTIORARI FILED IN THE COURT OF
COMM	050703	CSG				APPEALS OF MARYLAND, PER ALEXANDER L. CUMMINGS,
COMM	051603	CJL				MANDATE RETURNED & RECEIVED/JLL
ARTN	051603	CJL				AJAC;APPEAL RETURNED-JUDGMENT AFFIRMED
CCAS	051603	CJL				CASE CLOSED Q327
COMM	051603	CJL				MANDATE COURT OF SPECIAL APPEALS.NO:923.SEPT.TERM.2000
COMM	051603	CJL				OPINION; JUDGMENT AFFIRMED
COMM	051603	CJL				MANDATE ISSUED; 4/18/03
COMM	062503	CKS				ORDERED BY THE COURT OF APPEALS THAT THE PETITION BE AND IT
COMM	062503	CKS				IS HEREBY DENIED AS THERE HAS BEEN NO SHOWING THAT REVIEW
COMM	062503	CKS				BY CERTIORARI IS DESIRABLE AND IN THE PUBLIC INTEREST,
COMM	062503	CKS				BELL, C. J.
PCFD	052810	CFH				POST CONVICTION FILED

12:25:05 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART TIME ROOM REAS / EVENT COMMENT
COMM 052810	CFH	PETITION FOR POST-CONVICTION RELIEF FILED BY DEFENDANT
COMM 052810	CFH	ATTORNEY PC#10432
COMM 061010	S8R	FILE ORDERED FROM ANNAPOLIS BY SB
COMM 061410	CFH	MOTION TO DISMISS POST CONVICTION PETITION AND RESPONSE
COMM 061410	CFH	FILED BY THE STATE.
COMM 061710	CJP	ASSIGNED JUDGE MARTIN WELCH JP. RETURNED TO FRANK IN THE
COMM 061710	CJP	CRIM CLERKS OFFICE 6/17/10 JP.
COMM 062810	CFH	DELIVERED ORIGINAL FILE AND PC FILE TO JUDGE WELCH.
COMM 072310	CTL	CSET PC ; P18; 12/20/10; CTL PER ADD-ON FORM
COMM 101410	CFH	MOTION TO SEAL FILED BY DEFENDANT ATTORNEY AND FORWARDED
COMM 101410	CFH	TO JUDGE WELCH.
COMM 101510	CFH	MOTION FOR CERTIFICATION THAT AN OUT OF STATE WITNESS
COMM 101510	CFH	IS NEEDED IN THIS STATE FILED BY DEFENDANT ATTORNEY
COMM 101510	CFH	AND FORWARDED TO JUDGE WELCH.
COMM 102610	CFH	MOTION FOR SUBPOENA FOR TANGIBLE EVIDENCE FILED BY
COMM 102610	CFH	THE STATE AND FORWARDED TO JUDGE WELCH.
COMM 102710	S8M	TRANSCRIPTS ORDERED FROM ARCHIVES
COMM 102910	S8M	TRANSCRIPTS RECEIVED FROM ARCHIVES (2 BOXES)
COMM 110410	CFH	ORDER; IT IS THIS 1ST DAY OF NOVEMBER, 2010, AFTER CAREFUL

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EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 110410 CFH CONSIDERATION OF THE PETITIONER'S MOTION FOR CERTIFICATION
COMM 110410 CFH THAT OUT-OF-STATE WITNESS IS NEEDED IN THIS STATE. ORDERED
COMM 110410 CFH THAT THE MOTION IS HEREBY GRANTED; AND IT IS FURTHER ORDERED
COMM 110410 CFH THAT THE CLERK OF THIS COURT SHALL ISSUE FORTHWITH A
COMM 110410 CFH CERTIFICATE UNDER SEAL OF THIS COURT CERTIFYING TO THE
COMM 110410 CFH WASHINGTON COUNTY, OREGON, IN OREGON'S JUDICIAL DISTRICT,
COMM 110410 CFH THAT ASIA MCCLAIN OF 2428 NW DONCASTER TERRACE, HILLSBORO
COMM 110410 CFH OR 97124, IS A MATERIAL WITNESS IN THE ABOVE-CAPTIONED CASE
COMM 110410 CFH AND THAT HER PRESENCE AS A WITNESS AT THE POST-CONVICTION
COMM 110410 CVS CERTIFICATE TO SECURE THE ATTENDANCE OF AN OUT-OF-STATE
COMM 110410 CVS WITNESS FILED.
COMM 110410 CVS THIS IS TO CERTIFY TO CIRCUIT COURT FOR WASHINGTON COUNTY
COMM 110410 CVS OREGON, THAT: 1. PET. IN ABOVE CAPTIONED CASE WAS CONVICTED
COMM 110410 CVS OF MUR, AND HAS FLD A POST CON. PET. THE HEARING ON THAT
COMM 110410 CVS POST CON. IS SCHEDULED 12/20/10. 2. ASIA MCCLAIN IS A
COMM 110410 CVS MATERIAL WIT. FOR THIS HEARING. IN MARCH OF 2000,MS MCCLAIN
COMM 110410 CVS SIGNED A AFFIDAVIT, WITNESSED BY AT LEAST 2 INDIVIDUALS,
COMM 110410 CVS STATING THAT SHE WAS WITH DEF WHEN MUR. OCCURRED, BUT SHE
COMM 110410 CVS WAS NEVER CONTACTED BY DEFENSE. SHE ALSO WROTE MULTIPLE

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EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 110410	CVS					LETTERS TO DEF. STATING SHE WOULD BE WILLING TO HELP IN HIS
COMM 110410	CVS					CAS, IF ONLY SOMEBODY FROM THE DEFENSE WOULD CONTACT HER.
COMM 110410	CVS					3. WITNESS RESIDES AT 2428 NW DONCASTER TERRACE, HILLSBORO
COMM 110410	CVS					OR 97124. 4. WITNESS WILL NEED TO BE PRESENT TO TESTIFY ON
COMM 110410	CVS					12/20/10.5. DEFENSE COUNSEL IN ABOVE-CAPTIONED CASE WILL BE
COMM 110410	CVS					RESPONSIBLE FOR ALL REASONABLE EXPENSED THAT WITNESS INDURS.
COMM 110410	CVS					6. LAWS OF MD, AND ALL STATES THROUGH WHICH THE WIT. MAY BE
COMM 110410	CVS					REQUIRED TO PASS, WILL GIVE TO HER PROTECTION FROM ARREST
COMM 110410	CVS					AND THE SERVICE OF CIVIL AND CRIMINAL PROCESS. 7. BY ORDER
COMM 110410	CVS					OF THE HONORABLE MARTIN P. WELCH, JUDGE OF THE CIR. CT. OF
COMM 110410	CVS					WASH. CTY, OREGON, IS REQUESTED, PURSUANT TO THE UNIFORM ACT
COMM 110410	CVS					TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT A STATE
COMM 110410	CVS					IN CRIM. PROCEEDINGS, TO ISSUE AN APPROPRIATE ORDER
COMM 110410	CVS					COMMANDING THE SUMMONSING OF SAID WITNESS TO THE TRIAL IN
COMM 110410	CVS					THE ABOVE-CAPTIONED CASE ON OR ABOUT 12/20/10. WITNESS: THE
COMM 110410	CVS					HONORABLE MARTIN P. WELCH, JDG OF THE CIRCUIT COURT FOR BALT
COMM 110410	CVS					MD, THIS 1ST DAY OF NOV, 2010, JUDGE MARTIN WELCH.
COMM 110410	VGI					CSET HEAR; P18; 11/29/10; VGI (FR ADD ON PER LW CK GI)
COMM 110910	CMS					TWO BOXES OF BRICK BINDERS W/TRANSCRIPTS,ETC. DELIVERED TO

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	110910					CMS JUDGE WELCHS' CHAMBERS.
COMM	111710					CFH PETITIONER'S RESPONSE TO STATE'S MOTION FOR SUBPOENA
COMM	111710					CFH FOR TANGIBLE EVIDENCE FILED AND FORWARDED TO JUDGE WELCH.
HCAL	112910					SBT P18;0200;234 ;HEAR; ;OTHR; ;WELCH, MARTIN P;8A2
COMM	112910					SBT WRITTEN OPINION TO BE ISSUED
COMM	120210					CFH ORDER; IT IS THIS 30TH DAY OF NOVEMBER, 2010, FOLLOWING A
COMM	120210					CFH HEARING ON THE RECORD, THE STATE'S MOTION IS HEREBY GRANTED
COMM	120210					CFH IN PART. IT BEING SO ORDERED: PETITIONER IS TO PROVIDE ANY
COMM	120210					CFH PORTIONS OF THE FILE MAINTAINED BY CHRISTINA GUTIERREZ IN
COMM	120210					CFH IN CONNECTION WITH THE INVESTIGATION AND TRIAL FOR STATE V.
COMM	120210					CFH ADNAN SYED, CASE NBR 199103042-046, INCLUDING DOCOMENTS,
COMM	120210					CFH RECORDINGS, PHOTOGRAPHS AND OTHER TANGIBLE THINGS WHICH
COMM	120210					CFH SUPPORT THE PETITIONER'S ALLEGATIONS AS SET FORTH IN HIS
COMM	120210					CFH PETITIONER'S AS SET FORTH IN HIS PETITION FOR POST-
COMM	120210					CFH CONVICTION RELIEF. PETITIONER IS TO COMPLY WITH THIS ORDER
COMM	120210					CFH ON OR BEFORE JANUARY 15, 2011 PER JUDGE WELCH.
COMM	120710					CSS REMOVED PC 12-20 PER REMOVAL FR LAWCLERK SS.
COMM	121010					VGI CSET PC ; P18; 08/08/11; VGI (FR ADD ON PER LW CK GI)
HCAL	122010					CSS P18;0200;234 ;PC ; ;POST;CAN;WELCH, MARTIN P;8A2

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EVENT	DATE		OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	061311		CMS					SAID WITNESS TO THAT COURT TO SHOW CAUSE, IF ANY HE HAS,
COMM	061311		CMS					WHY HE SHOULD NOT BE ORDERED TO ATTEND THE TRIAL OF THIS
COMM	061311		CMS					CASE. WELCH J
COMM	062711		CFH					SUPPLEMENT TO PETITION FOR POST CONVICTION RELIEF FILED BY
COMM	062711		CFH					DEFENDANT ATTORNEY AND FORWARDED TO JUDGE WELCH.
HCAL	080811	1	CAT	P68	0200	228		;PC ; ;CONT; ;WELCH, MARTIN P;8A2
COMM	080811		CAT					CASE CONTINUED TO 10/20/11 PART 68, ISSUE WRIT TO DOC
COMM	081011		CTJ					CSET PC ; P18; 10/20/11; CTJ (DKT.8-8-11/PG.98)
COMM	090911		CEM					CSET PC ; P18; 02/06/12; CEM; PER ADD-ON 9/8/11
COMM	090911		CEM					CSET PC ; P18; 03/06/12; CEM; PER ADD-ON 9/8/11
COMM	092911		CFH					MOTION TO DISQUALIFY COUNSEL AND SUPPORTING MEMORANDUM
COMM	092911		CFH					OF LAW FILED BY DEFENDANT ATTORNEY AND FORWARDED TO J. WELCH
COMM	101311		CFH					STATE'S RESPONSE TO PETITIONER'S MOTION TO DISQUALIFY
COMM	101311		CFH					COUNSEL FILED AND FORWARDED TO JUDGE WELCH.
HCAL	102011		CEM	P18	0930	228		;PC ; ;POST;CAN;WELCH, MARTIN P;8A2
COMM	111511		CFH					PETITIONER'S NOTICE OF EXPERT WITNESS TESTIMONY FILED
COMM	111511		CFH					BY DEFENDANT ATTORNEY AND FORWARDED TO JUDGE WELCH.
COMM	012012		CBS					FILED ASA - MURPHY, KATHLEEN , ESQ 599824
COMM	012012		CBS					STATE'S MOTION TO EXCLUDE STATE'S MOTION TO STRIKE FILED.

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EVENT DATE	OPER	PART TIME ROOM REAS / EVENT COMMENT
HCAL 020612	SCB	P18;0200;228 ;PC ; ;OTHR; ;WELCH, MARTIN P;8A2
COMM 020612	SCB	PETITIONER'S MOTION TO DISQUALIFY ASA K.C. MURPHY IS HEREBY
COMM 020612	SCB	HEARD & DENIED; STATE'S MOTION TO EXCLUDE THE POLYGRAPH
COMM 020612	SCB	EXAMINER'S TESTIMONY IS HEREBY HEARD & GRANTED; STATE'S MO-
COMM 020612	SCB	TION TO PROHIBIT PETITIONER FROM CALLING EXPERT WITNESS FOR
COMM 020612	SCB	CERTAIN OPINIONS IS HEARD & DENIED
COMM 021412	CFH	ORDER; IT IS THIS 13TH DAY OF FEBRUARY, 2012, ORDERED
COMM 021412	CFH	PETITIONER'S MOTION TO DISQUALIFY COUNSEL IS HEREBY
COMM 021412	CFH	DENIED. STATE'S MOTION TO EXCLUDE IS GRANTED IN PART,
COMM 021412	CFH	IN THAT TESTIMONY BY PETITIONER'S NOTED EXPERT, POLYGRAPH
COMM 021412	CFH	EXAMINER DAN SEILER, IS EXCLUDED. STATE'S MOTION TO EXCLUDE
COMM 021412	CFH	IS DENIED IN PART, IN THAT PETITIONER'S REFERENCES TO
COMM 021412	CFH	POLYGRAPH EVIDENCE ORALLY AND IN WRITING SHALL NOT BE
COMM 021412	CFH	STRICKEN FROM THE RECORD IN THIS MATTER. STATE'S MOTION
COMM 021412	CFH	TO EXCLUDE IS DENIED IN PART, IN THAT PETITIONER'S NOTED
COMM 021412	CFH	EXPERT, MARGARET MEAD, SHALL NOT BE PRECLUDED FROM
COMM 021412	CFH	TESTIFYING REGARDING LIKELY PLEA OFFERS IN CASES SUCH AS
COMM 021412	CFH	THE PETITIONER'S TRIAL PER JUDGE WELCH.
COMM 030512	VGI	REMOVE PER LW CLERK FR JUDGE WELCH. GI)

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EVENT	DATE		OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
HCAL	030612		VGI	P18	0200	228	PC	;POST;CAN;WELCH, MARTIN P;8A2
COMM	030612		CTJ	CSET PC ; P18; 07/26/12; CTJ (ADD-ON FD. PER LAW CLERK)				
COMM	030612		CTJ	CSET PC ; P18; 08/09/12; CTJ (ADD-ON FD. PER LAW CLERK)				
COMM	030612		SBR	PC HEARING POSTPONED, RESET 7-26-12 PT.18; ISSUE DOC WRIT.				
COMM	071212		CEM	CSET PC ; P18; 10/11/12; CEM; PER ADD-ON 7/12/12				
COMM	071212		CEM	CSET PC ; P18; 10/25/12; CEM; PER ADD-ON 7/12/12				
COMM	071812		CTL	DATE OF 7/26/12 REMOVED PER CHANGE OF DOCKET REQUEST FORM.TD				
HCAL	072612		CTL	P18	0200	228	PC	;POST;CAN;WELCH, MARTIN P;8A2
COMM	072612		SCB	REMOVED				
HCAL	080912		CEM	P18	0200	228	PC	;POST;CAN;WELCH, MARTIN P;8A2
HCAL	101112	1	S8T	P18	0200	228	PC	;CONT; ;WELCH, MARTIN P;8A2
COMM	101112		S8T	HEARING CONTINUES 10/25/12 IN PART 8 @ 2:00 P.M. - ISSUE				
COMM	101112		S8T	DOC WRIT - FILE IN COURT				
HCAL	102512	1	S8T	P18	0200	228	PC	;HR;SUBC; ;WELCH, MARTIN P;8A2
COMM	102512		S8T	RULING HELD SUBCURIA PENDING WRITTEN MEMO - FILE W/LAW CLERK				
PCDN	010614		CFH	POST CONVICTION DENIED				
CCAS	010614		CFH	CASE CLOSED Q327				
COMM	010714		CFH	DATE STAMPED 1/6/14, & ORDERED 12/30/13, MEMORANDUM OPINION				
COMM	010714		CFH	AND ORDER: ORDERED THAT ALL OF PETITIONER'S REQUESTS FOR				

12:25:08 Wednesday, November 30, 2022

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EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
HCAL 030612   VGI P18;0200;228 ;PC  ;  ;POST;CAN;WELCH, MARTIN P;8A2
COMM 030612   CTJ CSET PC  ; P18; 07/26/12; CTJ (ADD-ON FD. PER LAW CLERK)
COMM 030612   CTJ CSET PC  ; P18; 08/09/12; CTJ (ADD-ON FD. PER LAW CLERK)
COMM 030612   S8R PC HEARING POSTPONED, RESET 7-26-12 PT.18; ISSUE DOC WRIT.
COMM 071212   CEM CSET PC  ; P18; 10/11/12; CEM; PER ADD-ON 7/12/12
COMM 071212   CEM CSET PC  ; P18; 10/25/12; CEM; PER ADD-ON 7/12/12
COMM 071812   CTL DATE OF 7/26/12 REMOVED PER CHANGE OF DOCKET REQUEST FORM.TD
HCAL 072612   CTL P18;0200;228 ;PC  ;  ;POST;CAN;WELCH, MARTIN P;8A2
COMM 072612   SCB REMOVED
HCAL 080912   CEM P18;0200;228 ;PC  ;  ;POST;CAN;WELCH, MARTIN P;8A2
HCAL 101112 1 S8T P18;0200;228 ;PC  ;  ;CONT;  ;WELCH, MARTIN P;8A2
COMM 101112   S8T HEARING CONTINUED 10/25/12 IN PART 8 @ 2:00 P.M. - ISSUE
COMM 101112   S8T DOC WRIT - FILE IN COURT
HCAL 102512 1 S8T P18;0200;228 ;PC  ;HR;SUBC;   ;WELCH, MARTIN P;8A2
COMM 102512   S8T RULING HELD SUBCURIA PENDING WRITTEN MEMO - FILE W/LAW CLERK
PCDN 010614   CFH POST CONVICTION DENIED
CCAS 010614   CFH CASE CLOSED  Q327
COMM 010714   CFH DATE STAMPED 1/6/14, & ORDERED 12/30/13, MEMORANDUM OPINION
COMM 010714   CFH AND ORDER: ORDERED THAT ALL OF PETITIONER'S REQUESTS FOR
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EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	042315	1SC					ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE
COMM	042315	1SC					CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS COURT, ON
COMM	042315	1SC					OR BEFORE APRIL 30, 2015, THE TRANSCRIPT OF THE TRIAL HELD
COMM	042315	1SC					FROM JANUARY 21, 2000 TO FEBRUARY 25, 2000; AND IT IS
COMM	042315	1SC					FURTHER ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR
COMM	042315	1SC					BALTIMORE CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS
COMM	042315	1SC					COURT, ON OR BEFORE APRIL 30, 2015, THE TRANSCRIPTS FROM THE
COMM	042315	1SC					POST CONVICTION HEARING CONDUCTED ON NOVEMBER 29, 2010,
COMM	042315	1SC					FEBRUARY 6, 2012, OCTOBER 11, 2012 AND OCTOBER 25, 2012 AND
COMM	042315	1SC					ALL EXHIBITS ADMITTED AT THE POST CONVICTION HEARING; AND IT
COMM	042315	1SC					FURTHER ORDERED THAT, UPON RECEIPT IN THIS COURT OF THE
COMM	042315	1SC					ITEMS SET FORTH ABOVE, THAT THE SAME SHALL BE MADE PART OF
COMM	042315	1SC					THE RECORD ON APPEAL IN THIS CASE. PER PETER B. KRAUSER,
COMM	042315	1SC					CHIEF JUDGE.
COMM	043015	1SC					ORDER TO SUPPLEMENT, DOCKET ENTRIES, AND (27) TRANSCRIPTS
COMM	043015	1SC					(4) ENV OF EXHIBITS FORWARDED TO COSA VIA FED EX TRACKING
COMM	043015	1SC					8075 7493 0742
COMM	043015	1SC					TRANSCRIPTS DATED 11/29/10, 2/6/12, 10/11/12, AND 10/25/12
COMM	043015	1SC					WERE NOT RECEIVED IN THS CLERK'S OFFICE.

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	042315		1SC				ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE
COMM	042315		1SC				CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS COURT, ON
COMM	042315		1SC				OR BEFORE APRIL 30, 2015, THE TRANSCRIPT OF THE TRIAL HELD
COMM	042315		1SC				FROM JANUARY 21, 2000 TO FEBRUARY 25, 2000; AND IT IS
COMM	042315		1SC				FURTHER ORDERED THAT THE CLERK OF THE CIRCUIT COURT FOR
COMM	042315		1SC				BALTIMORE CITY BE AND HEREBY IS DIRECTED TO TRANSMIT TO THIS
COMM	042315		1SC				COURT, ON OR BEFORE APRIL 30, 2015, THE TRANSCRIPTS FROM THE
COMM	042315		1SC				POST CONVICTION HEARING CONDUCTED ON NOVEMBER 29, 2010,
COMM	042315		1SC				FEBRUARY 6, 2012, OCTOBER 11, 2012 AND OCTOBER 25, 2012 AND
COMM	042315		1SC				ALL EXHIBITS ADMITTED AT THE POST CONVICTION HEARING; AND IT
COMM	042315		1SC				FURTHER ORDERED THAT, UPON RECEIPT IN THIS COURT OF THE
COMM	042315		1SC				ITEMS SET FORTH ABOVE, THAT THE SAME SHALL BE MADE PART OF
COMM	042315		1SC				THE RECORD ON APPEAL IN THIS CASE. PER PETER B. KRAUSER,
COMM	042315		1SC				CHIEF JUDGE.
COMM	043015		1SC				ORDER TO SUPPLEMENT, DOCKET ENTRIES, AND (27) TRANSCRIPTS
COMM	043015		1SC				(4) ENV OF EXHIBITS FORWARDED TO COSA VIA FED EX TRACKING
COMM	043015		1SC				8075 7493 0742
COMM	043015		1SC				TRANSCRIPTS DATED 11/29/10, 2/6/12, 10/11/12, AND 10/25/12
COMM	043015		1SC				WERE NOT RECEIVED IN THS CLERK'S OFFICE.

12:25:09 Wednesday, November 30, 2022

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EVENT DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 050715	CSU RECEIPT FOR TRANSCRIPT OF RECORD REC'D & SIGNED BY L. SADLER
COMM 050715	CSU CLERK, COURT OF SPECIAL APPEALS.
COMM 061615	CSJ ORDERED 5-18-15 BY COSA THAT THE APPEAL IS STAYED AND THAT
COMM 061615	CSJ APPELLANT'S REQUEST FOR A REMAND TO CIRCUIT COURT IS GRANTED
COMM 061615	CSJ AND THE CASE BE REMANDED TO CIRCUIT COURT WITHOUT AFFIRMANCE
COMM 061615	CSJ OR REVERSAL FOR THE PURPOSE SET FORTH IN FOLLOWING ORDER.
COMM 061615	CSJ ORDERED 5-18-15 THAT THE APPELLANT SHALL FILE HIS MOTION TO
COMM 061615	CSJ TO RE-OPEN THE CLOSED POSTS CONVICTION PROCEEDING WITHIN
COMM 061615	CSJ 45 DAYS OF THE DATE OF THIS ORDER AND IF HE FAILS
COMM 061615	CSJ TO DO SO, THE STAY SHALL BE LIFTED AND CASE WILL PROCEED
COMM 061615	CSJ WITH THE APPEAL WITHOUT ANY REFERENCE TO OR CONSIDERATION OF
COMM 061615	CSJ OF THE APPELLANT'S SUPPLEMENT TO APPLICATION FOR LEAVE TO
COMM 061615	CSJ APPEAL OR ANY DOCUMENTS NOT PRESENTLY A PART OF THE CIRCUIT
COMM 061615	CSJ COURTS RECORD. FURTHER ORDERED THAT AFTER TAKING ANY ACTION
COMM 061615	CSJ IT DEEMS APPROPRIATE, THE CIRCUIT COURT SHALL FORTHWITH
COMM 061615	CSJ RE-TRANSMIT THE RECORD TO COSA FOR FURTHER PROCEEDINGS.
COMM 061615	CSJ CHIEF JUDGE KRAUSER, JUDGES WOODWARD AND WRIGHT.
COMM 061615	CSJ POST CONVICTION FILE, 28 TRANSCRIPTS, 5 ENV. OF EXHIBITS
COMM 061615	CSJ AND 2 BINDERS ARE IN THE POST CONVICTION FILE AREA W/FRANK.

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	062915	CFH					FILED AAG - VIGNARAJAH, THIRUVENDRAN , ESQ 927010
COMM	062915	CFH					NOTICE OF ENTRY OF APPEARANCE FILED
COMM	063015	CFH					MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS FILED PER
COMM	063015	CFH					ATTORNEY PC#10432
COMM	063015	CFH					J. PIERSON CHAMBERS WAS TOLD THAT THE CLERK'S OFFICE DID
COMM	063015	CFH					RECEIVE MOTION TO REOPEN POST CONVICTION PROCEEDINGS.
COMM	080715	CMS					ORDER OF COURT DATED AUGUST 6, 2015, DATE STAMPED AUGUST 7,
COMM	080715	CMS					2015. HAVING REVIEWED THE REMAND ORDER BY THE COURT OF
COMM	080715	CMS					SPECIAL APPEALS AND THE MOTION TO RE-OPEN POST CONVICTION
COMM	080715	CMS					PROCEEDINGS, IT IS THIS 6TH DAY OF AUGUST, 2015, ORDERED,
COMM	080715	CMS					THAT THIS MATTER IS ASSIGNED TO JUDGE MARTIN P. WELCH
COMM	080715	CMS					(RET. CIRCUIT COURT FOR BALTIMORE CITY). PIERSON J
COMM	080715	CMS					COPY OF ORDER MAILED TO COUNSEL AND DEFENDANT BY CHAMBERS
COMM	080715	CMS					PC FILE #10432 GIVEN TO L. HUDGINS FOR F. HUSBAND TO
COMM	080715	CMS					SEND TO JUDGE WELCH.
COMM	080715	CMS					TRANSCRIPTS AND EXHIBITS IN K. FOXWORTH'S OFFICE
COMM	081015	CFH					PC FILE AND COPY OF PETITION DELIVERED TO JUDGE WELCH.
COMM	081715	CMS					ONE DISC MARKED 10-11,25-12 AND TWO VHS TAPES STATE'S
COMM	081715	CMS					EXHIBITS 6 AND 8 GIVEN TO THE COURT REPORTER'S OFFICE

12:25:10 Wednesday, November 30, 2022

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/	EVENT COMMENT
COMM	081715	CMS						TO COPY FOR CSNBC
COMM	082015	CMS						LETTER DATED 8-14-15 FROM JUDGE MARTIN WELCH TO ALL
COMM	082015	CMS						COUNSEL REGARDING STATUS OF OF CASE.
COMM	082415	CSJ						SUPPLEMENT TO MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS
COMM	082415	CSJ						FLD BY ATTORNEY J. BROWN. CC: JUDGE C. JONES
COMM	082715	S8F						SUPPLEMENT TO MOTION TO RE-OPEN POST CONVICTION PROCEEDINGS
COMM	082715	S8F						FILED 08/24/15 ERRONEOUSLY FORWARDED TO JUDGE JONES WAS
COMM	082715	S8F						FORWARDED TO JUDGE WELCH FROM JUDGE PIERSON'S CHAMBERS.
COMM	090315	CFH						MOTION FOR EXTENSION OF TIME TO FILE STATE'S RESPONSE
COMM	090315	CFH						TO PETITIONER'S MOTION TO REOPEN CLOSED POST CONVICTION
COMM	090315	CFH						PROCEEDINGS AND SUPPLEMENT THERETO FILED BY THE STATE AND
COMM	090315	CFH						FORWARDED TO JUDGE WELCH.
COMM	091015	CFH						DATE STAMPED 9/10/15, ORDERED 9/9/15, ORDER: ORDERED, THAT
COMM	091015	CFH						THE SATE OF MARYLAND'S MOTION IS HEREBY GRANTED, AND IT IS
COMM	091015	CFH						FURTHER ORDERED, THAT THE STATE OF MARYLAND'S CONSOLIDATED
COMM	091015	CFH						RESPONSE SHALL BE FILED BEFORE 4:30PM ON SEPTEMBER 23, 2015
COMM	091015	CFH						PER JUDGE WELCH.
COMM	091015	CFH						CHAMBERS SENT COPIES OF THIS ORDER
COMM	092315	CFH						CONSOLIDATED RESPONSE IN OPPOSITION TO PETITIONER'S MOTION

12:25:10 Wednesday, November 30, 2022

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CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 092315	CFH					AND SUPPLEMENT TO REOPEN POST CONVICTION PROCEEDINGS FILED
COMM 092315	CFH					BY THE STATE AND FORWARDED TO JUDGE WELCH.
COMM 100115	SCB					DAG VIGNARAJAH'S LETTER ATTACHING COPY OF REQUESTED EXHIBIT
COMM 100115	SCB					TO ADF C. JUSTIN BROWN FLD
COMM 101315	CFH					REPLY TO STATE'S CONSOLIDATED RESPONSE IN OPPOSITION TO
COMM 101315	CFH					MOTION AND SUPPLEMENT TO RE-OPEN POST-CONVICTION
COMM 101315	CFH					PROCEEDINGS FILED PER ATTORNEY AND FORWARDED TO J. WELCH.
COMM 110615	CFH					DATE STAMPED 11/6/15, ORDERED 11/6/15, STATEMENT OF REASONS
COMM 110615	CFH					AND ORDER OF THE COURT: ORDERED, THAT PETITIONER'S MOTION
COMM 110615	CFH					TO REOPEN POST CONVICTION PROCEEDINGS AND SUPPLEMENT THERETO
COMM 110615	CFH					IS HEREBY GRANTED; FURTHER ORDERED, THAT THE PARTIES SHALL
COMM 110615	CFH					CONTACT THIS COURT WITHIN 10(TEN)DAYS OF THE FILING OF
COMM 110615	CFH					THIS ORDER FOR THE PURPOSES OF SCHEDULING A HEARING PER
COMM 110615	CFH					JUDGE WELCH.
COMM 110615	CFH					CHAMBERS SENT COPIES OF THIS ORDER.
ERRC 110615	CSU					APPL;APPC;012714;ERRC
ACAS 110615	CSU					CASE ACTIVATED TO SET HEARING
COMM 121015	SBR					EMAILED CHAMBERS CONCERNING STATUS UPDATE.
COMM 121615	CFH					DATE STAMPED 12/15/15, ORDERED 12/15/15, SCHEDULING ORDER:

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 121615 CFH ORDERED, THAT A STATUS CONFERENCE SHALL BE HELD ON JANUARY
COMM 121615 CFH 12, 2016 AT 9:30PM, FURTHER ORDERED, THAT THE HEARING FOR
COMM 121615 CFH THE POST CONVICTION PROCEEDINGS IN THE ABOVE CAPTIONED CASE
COMM 121615 CFH SHALL BE HELD ON FEBRUARY 5, 2016 AND FEBRUARY 8, 2016 AT
COMM 121615 CFH 9:30AM PER JUDGE WELCH.
COMM 121615 CFH CHAMBERS SENT COPIES OF THIS ORDER
COMM 122915 CFH DATE STAMPED 12/28/15, ORDERED 12/28/15, REVISED SCHEDULING
COMM 122915 CFH ORDER: ORDERED, THAT A STATUS CONFERENCE SHALL BE HELD ON
COMM 122915 CFH JANUARY 12, 2016 AT 9:30AM; FURTHER ORDERED, THAT THE
COMM 122915 CFH HEARING FOR THE POST CONVICTION PROCEEDINGS IN THE ABOVE
COMM 122915 CFH CAPTIONED CASE SHALL BE HELD ON FEBRUARY 4, 2016 AND
COMM 122915 CFH FEBRUARY 5, 2016 AT 9:30 AM PER JUDGE WELCH
COMM 123015 S8R PER CHAMBERS, ADD-ONS WILL BE SUBMITTED ONCE DATES ARE
COMM 123015 S8R CONFIRMED.
COMM 011116 CFH CONSENT MOTION FOR SUBPOENA FOR TANGIBLE EVIDENCE FILED
COMM 011116 CFH BY ATTORNEY GENERAL OF MARYLAND AND FORWARDED TO J. WELCH.
COMM 011416 CFH DATE STAMPED 1/13/16, ORDERED 1/12/16, ORDER: ORDERED THAT
COMM 011416 CFH PURSUANT TO MARYLAND RULE 4-264, A SUBPOENA SHALL BE ISSUED
COMM 011416 CFH DIRECTING C. JUSTIN BROWN, ESQ., OR HIS DESIGNEE, TO

12:25:11 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 011416 CFH PRODUCE FOR INSPECTION AND COPYING THE COMPLETE ELECTRONIC
COMM 011416 CFH AND PAPER FILES OF SYED'S TRIAL COUNSEL, M. CRISTINA
COMM 011416 CFH GUTIERREZ, AND HER TEAM, AT A LOCATION AMENABLE, AS SOON AS
COMM 011416 CFH PRACTICABLE PER J. WELCH.
COMM 011416 CFH CHAMBERS SENT COPIES OF THIS ORDER
COMM 011516 CFH DATE STAMPED 1/15/16, ORDERED 1/15/16, ADDENDUM TO REVISED
COMM 011516 CFH SCHEDULING ORDER: ORDERED, THAT THE HEARING FOR THE POST
COMM 011516 CFH CONVICTION PROCEEDINGS IN THE CAPTONED CASE SHALL BE HELD
COMM 011516 CFH ON FEBRUARY 3, 2016, FEBRUARY 4, 2016, AND FEBRUARY 5,
COMM 011516 CFH 2016 AT 9:30AM PER JUDGE WELCH.
COMM 011516 CFH CHAMBERS SENT COPIES OF THIS ORDER
COMM 012216 CML CSET HEAR; P97; 02/03/16; CML
COMM 012216 CML CSET HEAR; P97; 02/04/16; CML
COMM 012216 CML CSET HEAR; P97; 02/05/16; CML
COMM 012916 CFH ORDER OF COURT DATED JANUARY 28, 2016, SECURITY/MEDIA
COMM 012916 CFH PROTOCOL ORDER FILED. ORDER IS SUBJECT TO MODIFICATION
COMM 012916 CFH BY THE COURT AT ANY TIME. W. MICHEL PIERSON J
COMM 012916 CFH COPIES MAILED TO ALL COUNSEL
HCAL 020216 1 lgj P97;0930;230 ;HEAR; ;CONT; ;WELCH, MARTIN P;8A2

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE		OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	020216		lgj				JOINT MOTION FOR SEQUESTION GRANTED; JOINT MOTION FOR
COMM	020216		lgj				RESPONDANT MOTIONS AS TO EXPERT WITNESSES GRANTED; STATE'S
COMM	020216		lgj				MOTION FOR SEQUESTION AS TO MS.CHAUDRY GRANTED; DEFENSE
COMM	020216		lgj				RENEWED MOTION AS TO MS.CHAUDRY SUBCURIA; CASE CONTINUED
COMM	020216		lgj				TO 02/04/16 IN PART 97 AT 9:30AM; WRIT TO DOC EXTENDED; FILE
COMM	020216		lgj				IN COURT
HCAL	020316		lT2	P97	0930	230	;HEAR; ;POST;OTH;WELCH, MARTIN P;8A2
HCAL	020416	1	CNN	P97	0930	230	;HEAR; ;CONT; ;WELCH, MARTIN P;8A2
COMM	020416		CNN				DEFENSE MOTION FOR SEQUESTRATION AS TO MS.CHAUDRY WAS
COMM	020416		CNN				HEREBY "WITHDRAWN"; CASE CONT'D TILL 2/05/2016
COMM	020416		CNN				'PART 97 AT 9:30AM; WRIT EXTENDED; FILE IN COURT
HCAL	020516	1	S8T	P97	0930	230	;HEAR; ;CONT; ;WELCH, MARTIN P;8A2
COMM	020516		S8T				HEARING CONTINUES 2/8/16 IN PRT 97 @ 9:30 AM - WRIT EXTENDED
COMM	020516		S8T				FILE IN COURT
COMM	020816		lgj				CSET HEAR; P97; 02/02/16; lgj
HCAL	020816	1	CNN	P97	0930	230	;HEAR; ;CONT; ;WELCH, MARTIN P;8A2
COMM	020816		CNN				CASE CONT'D TILL 2/9/16 PART 97 @ 9:30AM; EXTENDED WRIT
HCAL	020916	1	CPR	P97	0930	230	;HEAR;HR;SUBC; ;WELCH, MARTIN P;8A2
COMM	020916		CPR				DEFENDANT/PETITIONER FOR POST CONVICTION RELIEF HEARD

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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM 020916	CPR				MEMORANDUM AND OPINION TO BE FILED;(FILE IN CHAMBERS)
COMM 021116	CNN				CSET HEAR; P97; 02/08/16; CNN
COMM 021116	CPR				CSET HEAR; P97; 02/09/16; CPR
COMM 030116	CPR				MOTION TO SUPPLEMENT RECCORD
COMM 030116	CPR				MOTION TO SUPPLEMENT RECORD: CC:JUDGE JONES
HCRD 063016	CNN				001;MUR01;2 0900 ;SENT;20000606;ACTV FOR FURTHER PROC
COMM 063016	CFH				DATE STAMPED 6/30/16, ORDERED 6/30/16, MEMORANDUM OPINION II
COMM 063016	CFH				AND ORDER: ORDERED THAT THE RECORD, WHICH HAS BEEN
COMM 063016	CFH				SUPPLEMENTED WITH ASIA MCCLAIN'S JANUARY 13, 2015 AFFIDAVIT
COMM 063016	CFH				AND HER SUBSEQUENT TESTIMONY , SHALL BE RE-TRANSMITTED TO
COMM 063016	CFH				THE MARYLAND COURT OF SPECIAL APPEALS FOR FURTHER
COMM 063016	CFH				PROCEEDINGS; FURTHER ORDERED THAT THE PETITION FOR POST
COMM 063016	CFH				CONVICTION RELIEF AS TO TRIAL COUNSEL'S ALLEGED INEFFECTIVE
COMM 063016	CFH				ASSISTANCE FOR THE FAILURE TO CONTACT A POTENTIAL ALIBI
COMM 063016	CFH				WITNESS IS HEREBY DENIED; FUTHER ORDERED THAT THE PETITION
COMM 063016	CFH				FOR POST CONVICTION RELIEF AS TO ALLEGED PROSECUTORIAL
COMM 063016	CFH				MISCONDUCT OF WITHHOLDING POTENTIALLY EXCULPATORY EVIDENCE
COMM 063016	CFH				RELATED TO THE RELIABILITY OF CELL TOWER LOCATION EVIDENCE
COMM 063016	CFH				IS HEREBY DENIED; FURTHER ORDERED THAT THE POST CONVICTION

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CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	063016	CFH					RELIEF AS TO TRIAL COUNSEL'S ALLEGED INEFFECTIVE ASSISTANCE
COMM	063016	CFH					FOR THE FAILURE TO CROSS EXAMINE THE STATE'S CELL TOWER
COMM	063016	CFH					EXPERT ABOUT THE RELIABILITY OF CELL TOWER LOCATION EVIDENCE
COMM	063016	CFH					IS HEREBY GRANTED; FURTHER ORDERED THAT PETITIONER'S
COMM	063016	CFH					CONVICTIONS IN THE ABOVE-CAPTIONED CASE WITH CASE NOS.
COMM	063016	CFH					199103042-046 ARE VACATED; AND IT IS FINALLY ORDERED
COMM	063016	CFH					THAT PETITIONER'S REQUEST FOR A NEW TRIAL IS HEREBY
COMM	063016	CFH					GRANTED PER JUDGE WELCH.
COMM	063016	CFH					CHAMBERS SENT COPIES OF THIS ORDER
COMM	071216	1T2					CSET RARR; P44; 08/19/16; 1T2 (NO ACTION LIST/7-8-16 - TO
COMM	071216	1T2					RECEIVE AGREED UPON TRIAL DATE)
COMM	072116	CSJ					NOTICE OF INTENT TO FILE APPLICATION FOR LEAVE TO APPEAL
COMM	072116	CSJ					AND REQUEST TO STAY ORDER GRANTING POST CONVICTION
COMM	072116	CSJ					RELIEF FILED BY AGO B. FROSH. CC: WELCH, J.
HCRD	072516	CSJ					002;MUR05;I 0999 ;VNRC;20000225;ACTV FOR FURTHER PROC
APPL	080116	CSU					APFA;APPEAL TO COURT SPECIAL APPEALS FILED
COMM	080116	CSU					APPLICATION FOR LEAVE TO APPEAL ON THE POST CONVICTION'S
COMM	080116	CSU					ORDER VACATING THE CONVICTIONS & GRANTING HIM A NEW TRIAL
COMM	080116	CSU					WAS FLD. PER THIRUVENDRAN VIGNARAJAH, DEPUTY ATTY. GENERAL

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 080116	CSU					DUE TO TRANSMIT ON 08-31-16.*********ASSIGNED TO LMH********
COMM 080216	CSU					A CORRECTED COPY OF THE APPLICATION FOR LEAVE TO APPEAL WAS
COMM 080216	CSU					FLD. PER THIRUVENDRAN VIGNARAJAH, DEPUTY ATTY. GENERAL.
COMM 080316	S8P					DATE STAMPED 08/03/16 AND ORDERED 08/02/16 UPON
COMM 080316	S8P					CONSIDERATION OF THE RESPONDENT'S NOTICE OF INTENT TO FILE
COMM 080316	S8P					APPLICATION FOR LEAVE TO APPEAL AND REQUEST TO STAY ORDER
COMM 080316	S8P					GRANTING POST-CONVICTION RELIEF PURSUANT TO SECTION 7-109(B)
COMM 080316	S8P					OF THE CRIMINAL PROCEDURE ARTICLE OF THE MARYLAND CODE, AND
COMM 080316	S8P					NO RESPONSE IN OPPOSITION HAVING BEEN FILED BY THE
COMM 080316	S8P					PETITIONER, IT IS THIS 2ND DAY OF AUGUST, 2016 BY THE
COMM 080316	S8P					CIRCUIT COURT FOR BALTIMORE CITY, ORDERED THAT THE
COMM 080316	S8P					RESPONDENT'S REQUEST TO STAY ORDER GRANTING POST-CONVICTION
COMM 080316	S8P					RELIEF IS GRANTED PER JUDGE MARTIN WELCH (CC: FILE;
COMM 080316	S8P					HONORABLE W. MICHAEL PIERSON, ADF AND OAG)
COMM 080416	CSU					STATE'S EXHIBITS #4,5,6, (POSTERBOARDS) WAS SENT TO 6TH FLR.
COMM 081116	CSU					RESPONDENT ADNAN SYED'S CONDITIONAL APPLICATION FOR LEAVE
COMM 081116	CSU					TO CROSS APPEAL FLD. PER C. JUSTIN BROWN, LLC CHECK #1644
COMM 081116	CSU					IN THE AMOUNT OF $121.00. DUE TO TRANSMIT 09-12-16
COMM 081116	CSU					**********ASSIGNED TO LMH**********

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART TIME ROOM REAS / EVENT COMMENT
COMM 081116	CSJ	MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY W.
COMM 081116	CSJ	DAVID MAXWELL FILED CC: PETERS, J. CHECK # 1645
COMM 081116	CSJ	MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COMM 081116	CSJ	KATHRYN M. ALI FILED CC: PETERS, J. CHECK #1645
COMM 081116	CSJ	MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY JAMES
COMM 081116	CSJ	W. CLAYTON FILED CC: PETERS, J. CHECK #1645
COMM 081116	CSJ	IN REGARD TO MOTIONS FOR SPECIAL ADMISSION OF OUT-OF-STATE
COMM 081116	CSJ	ATTORNEY, R.D. @ COSA SAID THEY MUST BE ON RECORD AT CIRCUIT
COMM 081116	CSJ	TO APPEAR AT COSA.
COMM 081516	SCY	DATE STAMPED & ORDERED 8/15/16, THAT THE MOTION FOR SPECIAL
COMM 081516	SCY	ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT W.
COMM 081516	SCY	KATHRYN M. ALI, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMM 081516	SCY	THE PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMM 081516	SCY	TO RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMM 081516	SCY	MD. DAVID MAXWELL, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMM 081516	SCY	SHALL BE SUBJECT TO THE MD LAWYERS RULES OF PROFESSIONAL
COMM 081516	SCY	CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMM 081516	SCY	WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMM 081516	SCY	WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE

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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 081516 SCY LATTER'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMM 081516 SCY ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMM 081516 SCY COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMM 081516 SCY ADMINISTRATOR. PETERS, J (COPIES SENT FROM CHAMBERS) (COPY
COMM 081516 SCY OF ORDER SENT TO COURT ADMINISTRATOR)
COMM 081516 SCY DATE STAMPED & ORDERED 8/15/16, THAT THE MOTION FOR SPECIAL
COMM 081516 SCY ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT
COMM 081516 SCY JAMES W. CLAYTON, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMM 081516 SCY THE PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMM 081516 SCY TO RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMM 081516 SCY MD. JAMES W. CLAYTON, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMM 081516 SCY SHALL BE SUBJECT TO THE MD LAWYERS RULES OF PROFESSIONAL
COMM 081516 SCY CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMM 081516 SCY WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMM 081516 SCY WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE
COMM 081516 SCY LATTER'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMM 081516 SCY ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMM 081516 SCY COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMM 081516 SCY ADMINISTRATOR. PETERS, J (COPIES SENT FROM CHAMBERS) (COPY

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	081516	SCY					OF ORDER SENT TO COURT ADMINISTRATOR)
COMM	081516	SCY					DATE STAMPED & ORDERED 8/15/16, THAT THE MOTION FOR SPECIAL
COMM	081516	SCY					ADMISSION OF OUT-OF-STATE ATTORNEY IS GRANTED; & THAT W.
COMM	081516	SCY					DAVID MAXWELL, ESQ., IS SPECIALLY ADMITTED TO REPRESENT THE
COMM	081516	SCY					PETITIONER IN THE ABOVE-CAPTIONED CASE; & THAT, PURSUANT
COMM	081516	SCY					TO RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF
COMM	081516	SCY					MD. KATHRYN M. ALI, ESQ., SPECIALLY ADMITTED ATTORNEY,
COMM	081516	SCY					SHALL BE SUBJECT TO THE MD LAWYERS RULES OF PROFESSIONAL
COMM	081516	SCY					CONDUCT AND MAY ONLY ACT AS CO-COUNSEL FOR THE PETITIONER
COMM	081516	SCY					WHEN ACCOMPANIED BY AN ATTORNEY OF RECORD IN THIS ACTION
COMM	081516	SCY					WHO IS ADMITTED TO THE PRACTICE IN THIS STATE UNLESS THE
COMM	081516	SCY					LATTER'S PRESENCE IS WAIVED BY THE JUDGE PRESIDING OVER THE
COMM	081516	SCY					ACTION; & IT IS FURTHER ORDERED THAT THE CLERK OF THIS
COMM	081516	SCY					COURT SHALL FORWARD A COPY OF THIS ORDER TO THE STATE COURT
COMM	081516	SCY					ADMINISTRATOR. PETERS, J (COPIES SENT FROM CHAMBERS) (COPY
COMM	081516	SCY					OF ORDER SENT TO COURT ADMINISTRATOR)
COMM	081716	LDM					CASE REMOVED FROM ARRG PER ORDER F/ STAY..; J. WELCH
RCAL	081916	LDM	P44	0930	451	;RARR;	;CANC; ;TSET-NO ARRG CT;TSET
COMM	081916	lgj					CASE SET IN ERROR; NO FILE IN COURT

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CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	082216	CSU				CONDITIONAL APPLICATION FOR LIMITED REMAND FLD PER
COMM	082216	CSU				THIRUVENDRAN VIGNARAJAH, DEPUTY ATTORNEY GENERAL.
COMM	083116	CSU				ORIGINAL PAPERS FORWARDED TO COSA VIA FED EX TRACKING #8104-
COMM	083116	CSU				0426-9935. (7) BINDERS, (8) ENVELOPES WITH EXHIBITS, &
COMM	083116	CSU				(35) TRANSCRIPTS.
COMM	083116	CSU				SPOKE TO CARLOS ESTEP AT COSA INFORMING HIM OF THE FED EX
COMM	083116	CSU				TRACKING NUMBER SHIPMENT.
COMM	083116	CSU				PC FILES (3), (2) ORIGINAL FILES, & (4) BINDERS ARE IN THE
COMM	083116	CSU				APPEALS SECTION.
COMM	091216	CSU				TRANSCRIPT OF RECORD RECEIPT REC'D FROM COSA.
COMM	100416	CSU				STATE'S CONSOLIDATED REPLY FLD. PER THIRUVENDRAN VIGNARAJAH,
COMM	100416	CSU				DEPUTY ATTORNEY GENERAL WAS SENT TO COSA TO ADD TO THE
COMM	100416	CSU				RECORD.
COMM	102416	SCY				MOTION FOR RELEASE PENDING APPEAL FLD
COMM	102516	SCB				DEF'S MOTION FOR SPECIAL ADMISSION OT OUT-OF-STATE ATTORNEY
COMM	102516	SCB				SAMANTHA G. SPIRO FLD; CC: JUDGE PETERS
COMM	102516	SCB				DEF'S MOTION FOR SPECIAL ADMISSION OT OUT-OF-STATE ATTORNEY
COMM	102516	SCB				SAMANTHA G. SPIRO FLD; CC: JUDGE PETERS
COMM	102516	CSU				MOTION FOR RELEASE PENDING APPEAL WAS PICKED UP BY THE LAW

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EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 102516	CSU					CLERK, BRITTANY AND TAKEN TO JUDGE WELCH.
COMM 110216	SCY					DATE STAMPED 10/31/16, & ORDERED 10/28/16, THAT THE MOTION
COMM 110216	SCY					FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTY IS GRANTED. &THAT
COMM 110216	SCY					SAMANTHA G. SPIRO, ESQ., IS SPECIALLY ADMITTED TO REPRESENT
COMM 110216	SCY					THE DEFT IN THE ABOVE-CAPTIONED CASE. (SEE ORDER) PETERS, J
COMM 110216	SCY					(CC: COPIES SENT FROM CHAMBERS) (CC: COURT ADMINISTRATOR)
COMM 110716	SCY					STATE'S RESPONSE TO MOTION FOR RELEASE
COMM 110916	CSU					A COPY OF THE MOTION WAS HAND DELIVERED TO JUDGE WELCH.
COMM 111016	CSU					ORIGINAL MOTION FOR RELEASE PENDING APPEAL WAS HAND
COMM 111016	CSU					DELIVERED TO FRONT OFFICE.
COMM 111816	CBM					SYED'S REPLY IN SUPPORT OF MOTION FOR PRETRIAL RELEASE
COMM 111816	CBM					HAND DELIVERED TO JUDGE WELCH
COMM 122816	SCY					(MEMORANDUM OPINION MOTION FOR RELEASE PENDING APPEAL)
COMM 122816	SCY					DATE STAMPED & ORDERED 12/28/16, UPON CONSIDERATION OF
COMM 122816	SCY					PETITIONER'S MOTION FOR PENDING APPEAL, THE STATE'S
COMM 122816	SCY					RESPONSE TO MOTION FOR RELEASE, AND SYED'S REPLY IN
COMM 122816	SCY					SUPPORT OF MOTION FOR PRETRIAL RELEASE THERETO, AND FOR
COMM 122816	SCY					THE REASONS SET FORTH IN THE MEMORANDUM OPINION FOR THE
COMM 122816	SCY					ABOVE CAPTIONED CASE, IT IS ORDERED THAT PETITIONER'S

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 122816	SCY					MOTION FOR RELEASE PENDING APPEAL IS HEREBY DENIED.
COMM 122816	SCY					WELCH, J (CC: ALL PARTIES)
COMM 012317	CSU					ORDER: UPON CONSIDERATION OF THE STATE'S APPLICATION FOR
COMM 012317	CSU					LEAVE TO APPEAL NO. 1396, SEPT. TERM 2016, ADNAN SYED'S
COMM 012317	CSU					CONDITIONAL APPLICATION FOR LEAVE TO CROSS APPEAL, AND THE
COMM 012317	CSU					STATE'S CONDITIONAL APPLICATION FOR LIMITED REMAND, IT IS
COMM 012317	CSU					THIS 18TH DAY OF JANUARY, 2017, BY THE COURT OF SPECIAL
COMM 012317	CSU					APPEALS, ORDERED THAT THE ABOVE CAPTIONED CASES BE AND
COMM 012317	CSU					HEREBY ARE CONSOLIDATED AND THE STAY ENTERED IN NO. 2519,
COMM 012317	CSU					SEPT. TERM, 2013 BE AND HEREBY IS LIFTED; AND IT IS FURTHER
COMM 012317	CSU					ORDERED THAT THE STATE'S APPLICATION FOR LEAVE TO APPEAL IN
COMM 012317	CSU					NO. 1396, SEPT. TERM, 2016 BE AND HEREBY IS GRANTED AS THE
COMM 012317	CSU					FOLLOWING ISSUES: (1) WHETHER THE POST-CONVICTION COURT
COMM 012317	CSU					ABUSED ITS DISCRETION IN REOPENING THE POST-CONVICTION
COMM 012317	CSU					PROCEEDING TO CONSIDER SYED'S CLAIM THAT HIS TRIAL COUNSEL'S
COMM 012317	CSU					FAILURE TO CHALLENGE THE RELIABILITY OF THE CELL PHONE
COMM 012317	CSU					LOCATION DATA EVIDENCE, BASED ON THE CELL PHONE NUMBER
COMM 012317	CSU					PROVIDER'S "DISCLAIMER" ABOUT THE UNRELIABILITY OF INCOMING
COMM 012317	CSU					CALLS FOR LOCATION PURPOSES, VIOLATED SYED'S SIXTH AMENDMENT

12:25:15 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCN C 060399

EVENT DATE	OPER	PART TIME	ROOM	REAS	/ EVENT COMMENT
COMM 012317	CSU				RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL. (2) WHETHER
COMM 012317	CSU				THE POST-CONVICTION COURT ERRED IN FINDING THAT SYED HAD NOT
COMM 012317	CSU				WAIVED HIS CLAIM REGARDING TRIAL COUNSEL'S FAILURE TO
COMM 012317	CSU				CHALLENGE THE RELIABILITY OF THE CELL PHONE LOCATION DATA
COMM 012317	CSU				FOR INCOMING CALLS BY FAILING TO RAISE IT EARLIER.
COMM 012317	CSU				(3) WHETHER THE POST-CONVICTION COURT ERRED IN FINDING THAT
COMM 012317	CSU				SYED'S TRIAL COUNSEL'S FAILURE TO CHALLENGE THE STATE'S CELL
COMM 012317	CSU				PHONE LOCATION DATA EVIDENCE, BASED ON THE CELL PHONE
COMM 012317	CSU				PROVIDER'S "DISCLAIMER", VIOLATED SYED'S SIXTH AMENDMENT
COMM 012317	CSU				RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL.
COMM 012317	CSU				IT IS FURTHER ORDERED THAT SYED'S CONDITIONAL APPLICATION
COMM 012317	CSU				FOR CROSS-APPEAL IN NO. 1396, SEPT. TERM 2016 BE AND HEREBY
COMM 012317	CSU				IS GRANTED AS TO THE FOLLOWING ISSUES: (1) WHETHER THE
COMM 012317	CSU				POST-CONVICTION COURT ERRED IN FINDING THAT SYED'S TRIAL
COMM 012317	CSU				COUNSEL FAILURE TO INVESTIGATE A POTENTIAL ALIBI WITNESS
COMM 012317	CSU				(ASIA MCCLAIN) DID VIOLATE SYED'S SIXTH AMENDMENT RIGHT TO
COMM 012317	CSU				THE EFFECTIVE ASSISTANCE OF COUNSEL. (2) WHETHER THE POST-
COMM 012317	CSU				CONVICTION COURT INCORRECTLY LIMITED ITS PREJUDICE ANALYSIS
COMM 012317	CSU				ON THE ALIBI WITNESS ISSUE TO THE EFFECT OF TRIAL COUNSEL'S

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CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 012317 CSU THE STATE'S CROSS-APPELLEE BRIEF SHALL BE FILED ON OR BEFORE
COMM 012317 CSU APRIL 28, 2017 PER PETER B. KRAUSER, CHIEF JUDGE.
COMM 012717 CSU TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02-04-16,
COMM 012717 CSU 02-05-16,02-08-16,(1) SEALED ENVELOPE DATED 02-08-16,
COMM 012717 CSU 02-09-16 TRANSCRIBED BY ACCUSCRIBES TRANSCRIPTION SVC.
COMM 012717 CSU IN THE AMOUNT OF $8,225.00.
COMM 012717 CSU ORDER TO SUPPLEMENT, DOCKET ENTRIES, (1) SEALED ENVELOPE
COMM 012717 CSU WITH THE DATE OF 02-08-16, & (5) TRANSCRIPTS WAS SENT TO
COMM 012717 CSU COSA VIA FED EX TRACKING #8104-0426-9946
COMM 012717 SCY DATE STAMPED & ORDERED 1/26/17, THE COURT HAVING CONCLUDED
COMM 012717 SCY THAT A PORTION OF A HEARING IN THIS ACTION MUST BE SEALED,
COMM 012717 SCY IT IS ORDERED THAT THE RECORD OF PROCEEDINGS IN THIS ACTION
COMM 012717 SCY ON FEBRUARY 8, 2016, COMMENCING AT 4:35 P.M. AND CONTINUING
COMM 012717 SCY UNTIL 4:45 P.M. SHALL BE SEALED, AND SUBJECT TO ACCESS BY
COMM 012717 SCY ANY PERSON UNTIL FURTHER ORDER OF COURT. WELCH, J (CC:
COMM 012717 SCY ATTORNEY'S ON RECORD & COURT REPORTER)
COMM 012717 CSU APPLICATION FOR LEAVE TO APPEAL DENIAL OF MOTION FOR RELEASE
COMM 012717 CSU PENDING APPEAL FLD. PER. ATTY. C. JUSTIN BROWN OF BROWN &
COMM 012717 CSU NIETO, LLC CHECK #1220 IN THE AMOUNT OF $121.00. DUE TO

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CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 012317	CSU					THE STATE'S CROSS-APPELLEE BRIEF SHALL BE FILED ON OR BEFORE
COMM 012317	CSU					APRIL 28, 2017 PER PETER B. KRAUSER, CHIEF JUDGE.
COMM 012717	CSU					TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02-04-16,
COMM 012717	CSU					02-05-16,02-08-16,(1) SEALED ENVELOPE DATED 02-08-16,
COMM 012717	CSU					02-09-16 TRANSCRIBED BY ACCUSCRIBES TRANSCRIPTION SVC.
COMM 012717	CSU					IN THE AMOUNT OF $8,225.00.
COMM 012717	CSU					ORDER TO SUPPLEMENT, DOCKET ENTRIES, (1) SEALED ENVELOPE
COMM 012717	CSU					WITH THE DATE OF 02-08-16, & (5) TRANSCRIPTS WAS SENT TO
COMM 012717	CSU					COSA VIA FED EX TRACKING #8104-0426-9946
COMM 012717	SCY					DATE STAMPED & ORDERED 1/26/17, THE COURT HAVING CONCLUDED
COMM 012717	SCY					THAT A PORTION OF A HEARING IN THIS ACTION MUST BE SEALED,
COMM 012717	SCY					IT IS ORDERED THAT THE RECORD OF PROCEEDINGS IN THIS ACTION
COMM 012717	SCY					ON FEBRUARY 8, 2016, COMMENCING AT 4:35 P.M. AND CONTINUING
COMM 012717	SCY					UNTIL 4:45 P.M. SHALL BE SEALED, AND SUBJECT TO ACCESS BY
COMM 012717	SCY					ANY PERSON UNTIL FURTHER ORDER OF COURT. WELCH, J (CC:
COMM 012717	SCY					ATTORNEY'S ON RECORD & COURT REPORTER)
COMM 012717	CSU					APPLICATION FOR LEAVE TO APPEAL DENIAL OF MOTION FOR RELEASE
COMM 012717	CSU					PENDING APPEAL FLD. PER. ATTY. C. JUSTIN BROWN OF BROWN &
COMM 012717	CSU					NIETO, LLC CHECK #1220 IN THE AMOUNT OF $121.00. DUE TO

12:25:16 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	012717	CSU					TRANSMIT 03-28-17.**********ASSIGNED TO LMH**********
COMM	020117	CSU					A COPY OF THE APPLICATION FOR LEAVE TO APPEAL DENIAL OF
COMM	020117	CSU					MOTION FOR RELEASE AND A COPY OF THE ORDER SENT FROM COSA
COMM	020117	CSU					DATED 01-23-17 WAS HAND DELIVERED TO THE FRONT OFFICE.
COMM	020717	CSU					TRANSCRIPTS OF PROCEEDINGS DATED 02-03-16,02-04-16,02-05-16
COMM	020717	CSU					02-08-16,02-09-16 AND (1) SEALED ENVELOPE WITH A TRANSCRIPT
COMM	020717	CSU					WAS TRANSCRIBED BY ACCUSCRIBES TRANSCRIPTION SVC.
COMM	020817	CSU					ORDER TO SUPPLEMENT, DOCKET ENTRIES, (1) SEALED ENVELOPE
COMM	020817	CSU					WITH AND TRANSCRIPT & ((5) TRANSCRIPTS WAS SENT TO COSA VIA
COMM	020817	CSU					FED EX TRACKING #8111-9411-0647.
COMM	020817	CSU					TRANSCRIPT OF RECORD REC'D FROM COSA.
COMM	032817	CSU					ORIGINAL PAPERS FORWARDED TO COSA VIA FED EX TRACKING #8113-
COMM	032817	CSU					0615-4307. (1) BINDER, NO EXHIBITS, AND NO TRANSCRIPTS.
COMM	060617	CDC					MANDATE: COSA #2563, SEPTEMBER TERM, 2016
COMM	060617	CDC					OPINION: APPLICATION FOR LEAVE TO APPEAL DENIED
COMM	060617	CDC					MANDATE ISSUED: MAY 30, 2017
CCMA	060617	CDC					COURTESY COPY OF COSA MANDATE ;TICKLE DATE= 20170721
COMM	060617	CPR					COPY HAS BEEN SENT TO ALL PARTIES PER COURT ORDER
ARTN	080817	CSU					APDN;APPEAL RETURNED - APPLICATION DENIED

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM	080817	CSU					PC FILE & BINDER IS IN THE APPEALS SECTION FOR PENDING
COMM	080817	CSU					APPEAL.
APPL	080817	CSU					APFA;APPEAL TO COURT SPECIAL APPEALS FILED
COMM	080817	CSU					APPEALS STILL PENDING DATED 01-27-14,08-01-16,08-11-16.
COMM	050418	CDC					MANDATE: COSA #1396, SEPTEMBER TERM, 2016
COMM	050418	CDC					OPINION: JUDGMENT AFFIRMED. CASE REMANDED FOR NEW TRIAL ON
COMM	050418	CDC					ALL CHARGES.
COMM	050418	CDC					MANDATE ISSUED: 4-30-18
COMM	051718	CSU					RECEIPT IS HEREBY ACKNOWLEDGED OF A PETITION FOR WRIT OF
COMM	051718	CSU					CERTIORARI FILED IN THE ABOVE ENTITLED CASE PER BESSIE M.
COMM	051718	CSU					DECKER, CLERK COURT OF APPEALS.
COMM	053018	1CO					MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY
COMM	053018	1CO					CATHERINE E. STETSON FILED CC:JUDGE PHINN
COMM	060618	CPR					DATE STAMPED AND ORDERED 6/5/18 THAT THE "MOTION FOR SPECIAL
COMM	060618	CPR					ADMISSION OF OUT-OF-STATE ATTORNEY CATHERINE E STETSON" IS
COMM	060618	CPR					"GRANTED";AND IT IS FURTHER ORDERED THAT CATHERINE E.STETSON
COMM	060618	CPR					IS SPECIALLY ADMITTED FOR THE LIMITED PURPOSE OF APPEARING
COMM	060618	CPR					AS CO-COUNSEL FOR PETITIONER IN THE ABOVE-CAPTIONED CASE
COMM	060618	CPR					COPY SENT TO STATE COURT ADMINISTRATOR

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EVENT DATE	OPER	PART TIME	ROOM	REAS / EVENT COMMENT
COMM 071818	CDC			ORDER: IT IS THIS 12TH DAY OF JULY, 2018 ORDERED, BY THE
COMM 071818	CDC			COURT OF APPEALS OF MARYLAND, THAT THE PETITION AND THE
COMM 071818	CDC			CONDITIONAL CROSS-PETITION BE, AND THEY ARE HEREBY, GRANTED,
COMM 071818	CDC			AND A WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS
COMM 071818	CDC			SHALL ISSUE; AND IT IS FURTHER ORDERED, THAT SAID CASE SHALL
COMM 071818	CDC			BE TRANSFERRED TO THE REGULAR DOCKET AS NO. 24, SEPTEMBER
COMM 071818	CDC			TERM, 2018, AND IT IS FURTHER ORDERED, THAT THE COUNSEL
COMM 071818	CDC			SHALL FILE BRIEFS AND PRINTED RECORD EXTRACT IN ACCORDANCE
COMM 071818	CDC			WITH MD. RULES 8-501 AND 8-502, PETITIONER'S BRIEF AND
COMM 071818	CDC			RECORD EXTRACT TO BE FILED ON OR BEFORE AUGUST 21, 2018;
COMM 071818	CDC			RESPONDENT/CROSS-PETITIONER'S BRIEF TO BE FILED ON OR
COMM 071818	CDC			BEFORE SEPTEMBER 20, 2018; CROSS-RESPONDENT'S BRIEF TO BE
COMM 071818	CDC			FILED ON OR BEFORE OCTOBER 22, 2018; AND IT IS FURTHER
COMM 071818	CDC			ORDERED, THAT THIS CASE SHALL BE SET FOR ARGUMENT DURING THE
COMM 071818	CDC			DECEMBER SESSION OF COURT. PER CHIEF JUDGE MARY ELLEN
COMM 071818	CDC			BARBERA.
ARTN 051619	CSU			PCAD;APPLICATION DENIED - POST CONVICTION
COMM 051619	CSU			MANDATE: COURT OF APPEALS NO. 24, SEPT. TERM 2018
COMM 051619	CSU			OPINION: JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED.

12:25:18 Wednesday, November 30, 2022

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EVENT DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 051619	CSU CASE REMANDED TO THAT COURT WITH DIRECTIONS TO REVERSE THE
COMM 051619	CSU JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY WHICH
COMM 051619	CSU GRANTED RESPONDENT A NEW TRIAL.
COMM 051619	CSU MANDATE ISSUED: 03-08-19
COMM 051619	CSU ORIGINAL FILE, (4) PC FILES, (13) BINDERS, (1) RED FOLDER
COMM 051619	CSU DOCKET ENTRIES, (1) SEALED ENVELOPE WITH JURY LIST, (8)
COMM 051619	CSU ENVELOPES WITH EXHIBITS, AND (46) TRANSCRIPTS WAS SENT TO
COMM 051619	CSU FILE ROOM.
COMM 052819	SCY CSET JT ; P09; 02/25/00; SCY
COMM 052819	SCY CSET JT ; P09; 06/06/00; SCY
CCAS 052819	SCY CASE CLOSED - ALL COUNTS DISPOSED Q326
COMM 031022	CFH FILED ASA - FELDMAN, BECKY , ESQ 247730
FILE 031022	CFH FILED APD - SUTER, ERICA J , ESQ 818680
COMM 031022	CFH ENTRY OF APPEARANCE FILED
PCFD 031022	CFH POST CONVICTION FILED
COMM 031022	CFH JOINT PETITION FOR POST CONVICTION DNA TESTING FILED
COMM 031022	CFH PC#10432
COMM 031122	CFH REQUESTING ORIGINAL FILES(3)FROM THE FILE ROOM.
COMM 031522	CFH DATE STAMPED 3/14/22, ORDERED 3/14/22, ORDER FOR POST

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EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 031522 CFH CONVICTION DNA TESTING: THE BALTIMORE POLICE DEPARTMENT
COMM 031522 CFH SHALL, WITHIN FIFTEEN(15)DAYS OF THE ENTRY OF THIS ORDER
COMM 031522 CFH SEND BY OVERNIGHT MAIL ALL ITEMS ASSOCIATED WITH PROPERTY
COMM 031522 CFH NBRS 99004666, 9908996,99004672, AND 099004674 AND
COMM 031522 CFH COLLECTED PURSUANT TO CC#9988005801 TO FORENSIC ANALYTICAL
COMM 031522 CFH CRIME LAB(FACL)3777 DEPOT RD. STE. 403, HAYNARD, CA 94545-
COMM 031522 CFH 2761. THE STATE SHALL TAKE ALL REASONABLE STEPS TO PRESERVE
COMM 031522 CFH THE CHAIN OF CUSTODY IN CONNECTION WITH TRANSMITTING THE
COMM 031522 CFH EVIDENCE TO FACL AND ALL DOCUMENTATION RELATING TO THE CHAIN
COMM 031622 CFH OF CUSTODY SHALL BE PROVIDED TO PETITIONER. PETITIONER'S
COMM 031522 CFH COUNSEL SHALL ASSIST IN THE COMPLETION OF THE LABORATORY
COMM 031522 CFH SUBMISSION FORM, THE CODIS PRE-APPROVAL FORM, AND ANY OTHER
COMM 031522 CFH DOCUMENTATION NEEDED IN CONNECTION WITH THE TRANSPORTING AND
COMM 031522 CFH TESTING OF THIS EVIDENCE. THE SPECIFIC DNA TESTING
COMM 031522 CFH METHODOLOGY TO BE UTILIZED SHALL BE DETERMINED BY
COMM 031522 CFH PETITIONER'S COUNSEL IN CONSULTATION WITH FACL AFTER
COMM 031522 CFH PRELIMINARY EXAMINATION OF THE EVIDENCE. PETITIONER'S
COMM 031522 CFH COUNSEL SHALL CONSULT WITH THE STATE REGARDING TESTING
COMM 031522 CFH METHODOLOGY BEFORE COMMENCING TESTING. THE DNA SHALL BE DONE

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EVENT DATE	OPER	PART TIME ROOM REAS / EVENT COMMENT
COMM 031522	CFH	IN ACCORDANCE WITH TECHNIQUES AND TESTING THAT IS GENERALLY
COMM 031522	CFH	ACCEPTED IN THIS SCIENTIFIC COMMUNITY FOR FORENSIC CRIMINAL
COMM 031522	CFH	IDENTIFICATION. FACL SHALL TAKE ALL REASONABLE ACTIONS TO
COMM 031522	CFH	PRESERVE A SUFFICIENT PORTION A SUFFICIENT PORTION OF EACH
COMM 031522	CFH	ENUMERATED SAMPLE IT RECEIVES FOR FUTURE COMFIRMATORY
COMM 031522	CFH	TESTING. FACL WILL ENGAGE IN CONSUMPTIVE TESTING ONLY, IF
COMM 031522	CFH	IN THE OPINION OF THE ANALYST, IT IS NECESSARY TO DO SO IN
COMM 031522	CFH	ORDER TO OBTAIN A DNA PROFILE, AND ONLY AFTER CONSULTING
COMM 031522	CFH	WITH PETITIONER'S COUNSEL, WHO, IN TURN, SHALL CONSULT WITH
COMM 031522	CFH	THE STATE REGARDING PRESUMPTIVE TESTING. FACL SHALL PROVIDE
COMM 031522	CFH	TO THE STATE OF MARYLAND AND PETITIONER'S COUNSEL A FULL AND
COMM 031522	CFH	CMPLETE COPY OF ALL REPORTS, RESULTS, CASE NOTES AND DATA
COMM 031522	CFH	GENERATED IN CONNECTION WITH THE DNA TESTING OF ALL SAMPLES.
COMM 031522	CFH	THE TESTING RESULTS SHALL BE MADE AVAILABLE FOR ALL FUTURE
COMM 031522	CFH	USE IN ANY PROCEEDING OR INVESTIGATION RELATING TO ANY OTHER
COMM 031522	CFH	INDIVIDUALS SUSPECTED OF INVOLVEMENT IN THE OFFENSE AT ISSUE
COMM 031522	CFH	IN THE CAPTIONED CASE. THE COSTS OF TRANSPORTING THIS
COMM 031522	CFH	EVIDENCE BY OVERNIGHT MAIL AND ALL OTHER COSTS ASSOCIATED
COMM 031522	CFH	WITH THE TESTING OF THE EVIDENCE SHALL BE BORNE BY

12:25;19 Wednesday, November 30, 2022

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EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 031522						CFH PETITIONER, ADNAN SYED PER JUDGE PHINN.
COMM 031522						CFH MAILED COPIES OF THIS ORDER TO ALL PARTIES
COMM 032522						CFH STATEMENT TO SUPPLEMENT THE RECORD FILED BY THE ASSISTANT
COMM 032522						CFH ATTORNEY GENERAL FILED AND FORWARDED TO JUDGE PHINN.
COMM 032822						S8T LETTER TO JUDGE PHINN FROM ERICA SUTER RE: DNA TESTING FILED
COMM 091422						S8T DEFENSE RESPONSE TO STATE'S MOTION TO VACATE JUDGMENT
COMM 091422						S8T FILED BY ERICA SUTER CC: JUDGE MYSHALA MIDDLETON
COMM 091422						SCO MOTION TO VACATE JUDGMENT. CC:JUDGE M.MIDDLETON.
COMM 091922						CFH ORIGINAL FILES(2)AND PC FILE DELIVERED TO JUDGE PHINN.
COMM 091922						SNL DATE STAMPED 09/19/22, ORDER OF COURT DATED 09/17/22, 1.
COMM 091922						SNL THE HEARING IN THE ABOVE CAPTIONED CASE IS SCHEDULED TO BE
COMM 091922						SNL CONDUCTED IN COURTROOM 556 ("THE COURTROOM"), OF THE
COMM 091922						SNL CUMMINGS COURTHOUSE, LOCATED AT 111 N. CALVERT ST.,
COMM 091922						SNL BALTIMORE, MD 21202 ("THE COURTHOUSE"). THE PRESIDING TRIAL
COMM 091922						SNL JUDGE SHALL BE THE HONORABLE MELISSA M. PHINN. 2. PUBLIC
COMM 091922						SNL INFORMATION OFFICER, OFFICE OF GOVERNMENTAL RELATIONS AND
COMM 091922						SNL PUBLIC AFFAIRS, STATE OF MARYLAND JUDICIARY, SHALL BE
COMM 091922						SNL DESIGNATED AS THE COURT'S MEDIA LIASION FOR PURPOSES OF THIS
COMM 091922						SNL ORDER AND CAN BE REACHED AT 410-260-1488, EMAIL

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EVENT DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM 091922	SNL				BRADLEY.TANNER@MDCOURTS.GOV; TERRI.CHARLES@MDCOURTS.GOV.
COMM 091922	SNL				BRADLEY TANNER CAN BE REACHED DIRECTLY AT: 410-218-7418. 3.
COMM 091922	SNL				ALL MEDIA INQUIRIES SHALL BE DIRECTED TO THE COURT'S MEDIA
COMM 091922	SNL				LIAISON. 4. ALL PERSONS WITHIN THE COURTHOUSE SHALL REMAIN
COMM 091922	SNL				SUBJECT TO THE OCCUPANCY LIMITS AND SECURITY MEASURES
COMM 091922	SNL				ESTABLISHED BY SHERIFF JOHN ANDERSON, SHERIFF OF THE
COMM 091922	SNL				BALTIMORE CITY SHERIFF'S OFFICE ("SHERIFF"), WHO CAN BE
COMM 091922	SNL				REACHED AT 410-396-1155, EMAIL ADDRESS:
COMM 091922	SNL				JOHN.ANDERSON@BALTIMORECITY.GOV, AND CHIEF FIRE MARSHALL
COMM 091922	SNL				FOR BALTIMORE CITY ("FIRE MARSHALL"), WHO CAN BE REACHED AT
COMM 091922	SNL				410-396-5752, EMAIL ADDRESS: FIREMARSHAL@BALTIMORECITY.GOV.
COMM 091922	SNL				5. ALL PERSONS ENTERING THE COURTHOUSE SHALL: ADHERE TO THE
COMM 091922	SNL				SECURITY PROCEDURES AS DIRECTED BY THE SHERIFF; PASS
COMM 091922	SNL				THROUGH ELECTRONIC SECURITY DEVICES; SUBMIT THEIR EQUIPMENT
COMM 091922	SNL				AND OTHER EFFECTS TO SEARCH PROCEDURES AT THE DISCRETION OF
COMM 091922	SNL				THE SHERIFF'S DEPUTIES; AND SHOW A VALID MEDIA CREDENTIAL
COMM 091922	SNL				TO SECURITY PERSONNEL WHEN REQUESTED. TO EXPEDITE ENTRY,
COMM 091922	SNL				ALL PERSONS ARE REQUESTED TO REFRAIN FROM BRINGING EXCESS
COMM 091922	SNL				BAGS OR BACKPACKS INTO THE COURTHOUSE. 6. NO AUDIO OR VIDEO

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EVENT	DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM	091922	SNL				RECORDING EQUIPMENT, INCLUDING MEDIA CAMERAS, OR
COMM	091922	SNL				TRANSMITTING EQUIPMENT SHALL BE PERMITTED IN THE COURTHOUSE,
COMM	091922	SNL				EXCEPT AS PROVIDED IN THIS ORDER. PURSUANT TO MD. RULE
COMM	091922	SNL				16-208, NO PERSON MAY USE AN ELECTRONIC DEVICE TO TAKE
COMM	091922	SNL				SCREEN CAPTURES, SCREENSHOTS, PHOTOGRAPHS, VIDEOS, AUDIO
COMM	091922	SNL				RECORDINGS OR MAKE OTHER ELECTRONIC RECORDINGS WITHIN THE
COMM	091922	SNL				COURTHOUSE, AND NO PERSON MAY TRANSMIT, PUBLISH, OR
COMM	091922	SNL				OTHERWISE DISSEMINATE ANY SUCH ELECTRONIC AUDIO OR VIDEO
COMM	091922	SNL				RECORDING, EXCEPT AS PROVIDED IN THIS ORDER. 7. ALL
COMM	091922	SNL				ELECTRONIC DEVICES, INCLUDING, BUT NOT LIMITED TO, CELL
COMM	091922	SNL				PHONES, LAPTOPS, AND TABLETS MUST BE TURNED OFF (NOT IN
COMM	091922	SNL				SILENT OR SLEEP MODES) WHILE INSIDE THE COURTROOM, UNLESS
COMM	091922	SNL				EXPRESS PERMISSION IS GIVEN BY THE COURT, OR AS PROVIDED IN
COMM	091922	SNL				THIS ORDER. PURSUANT TO MD. RULE 16-208(B)(3)(A), ATTORNEYS
COMM	091922	SNL				AND THEIR AGENTS REPRESENTING PARTIES IN THE PROCEEDINGS
COMM	091922	SNL				MAY MAKE REASONABLE AND LAWFUL USE OF AN ELECTRONIC DEVICE
COMM	091922	SNL				IN CONNECTION WITH THE PROCEEDINGS. 8. ELECTRONIC DEVICES
COMM	091922	SNL				AND EQUIPMENT SOUGHT TO BE USED OR EMPLOYED BY MEMBERS OF
COMM	091922	SNL				THE MEDIA MUST COMPLY WITH THE OPERATIONAL REQUIREMENTS

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EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL ESTABLISHED UNDER MD. RULE 16-607, UNLESS APPROVED BY THE
COMM 091922 SNL COURT. 9. LIMITED SEATING WILL BE AVAILABLE IN THE GALLERY
COMM 091922 SNL OF THE COURTROOM, AS DETERMINED BY THE COURT, THE SHERIFF,
COMM 091922 SNL AND THE FIRE MARSHALL. THE COURT MAY APPORTION THE
COMM 091922 SNL AVAILABLE SEATING. WHERE NECESSARY, THE COURT SHALL MAKE
COMM 091922 SNL OVERFLOW SEATING ARRANGEMENTS IN ANOTHER SPACE WITHIN THE
COMM 091922 SNL COURTHOUSE, TO VIEW THE PROCEEDINGS VIA VIDEO LIVE FEED. ALL
COMM 091922 SNL PERSONS WITHIN ANY SPACE DESIGNATED FOR OVERFLOW SEATING ARE
COMM 091922 SNL SUBJECT TO THE SAME PROHIBITIONS ON ELECTRONIC AUDIO OR
COMM 091922 SNL VIDEO RECORDINGS, AND THE SAME PROHIBITIONS ON PUBLICATION
COMM 091922 SNL OF ELECTRONIC AUDIO OR VIDEO RECORDINGS, EXCEPT AS PROVIDED
COMM 091922 SNL IN THIS ORDER. COURTROOM 523 CUMMINGS COURTHOUSE IS
COMM 091922 SNL DESIGNATED AS THE OVERFLOW COURTROOM. 10. THERE SHALL BE
COMM 091922 SNL LIMITED, RESERVED SEATING FOR MEMBERS OF THE MEDIA IN THE
COMM 091922 SNL COURTROOM. MEMBERS OF THE MEDIA MAY INDICATE THEIR DESIRE
COMM 091922 SNL FOR A SEAT WITHIN THE COURTROOM BY CONTACTING THE COURT'S
COMM 091922 SNL MEDIA LIAISON. THE COURT'S MEDIA LIAISON MAY ALLOCATE SEATS
COMM 091922 SNL BASED ON REQUESTS RECEIVED AND SHALL COMMUNICATE TO THE
COMM 091922 SNL SHERIFF'S OFFICE THE NAMES OF MEDIA MEMBERS ALLOTTED SEATS

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EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL RESERVED FOR MEDIA. THE REMAINING SEATS SHALL BE MADE
COMM 091922 SNL AVAILABLE TO MEMBERS OF THE PUBLIC ON A FIRST-COME/FIRST-
COMM 091922 SNL SERVED BASIS. 11. THE SHERIFF WILL ESTABLISH PROCEDURES TO
COMM 091922 SNL GOVERN ORDERLY ENTRY TO THE COURTHOUSE AND TO THE COURTROOM
COMM 091922 SNL AND EXIT THEREFROM. ONLY THOSE MEMBERS OF THE MEDIA WHOM
COMM 091922 SNL HAVE BEEN GRANTED AND POSSESS A MEDIA CREDENTIAL
COMM 091922 SNL IDENTIFICATION CARD FROM THE SHERIFF'S OFFICE SHALL BE
COMM 091922 SNL PERMITTED IN THE COURTROOM DURING THE PROCEEDINGS. PERSONS
COMM 091922 SNL WHO LEAVE THE COURTROOM DURING THESE PROCEEDINGS SHALL NOT
COMM 091922 SNL BE READMITTED UNTIL THE NEXT RECESS, EXCEPT AS PERMITTED BY
COMM 091922 SNL THE COURT. 12. SHERIFF'S DEPUTIES MAY INSPECT ANY
COMM 091922 SNL ELECTRONIC DEVICE AT ANY TIME FOR MISUSE, AND, IF NECESSARY,
COMM 091922 SNL CONFISCATE THE DEVICE IF IT APPEARS TO BE IN USE OR
COMM 091922 SNL OPERATED IN VIOLATION OF THIS ORDER. SHERIFF'S DEPUTIES AND
COMM 091922 SNL OTHER COURT PERSONNEL ARE NOT LIABLE FOR ANY DAMAGE OR LOSS
COMM 091922 SNL OF ELECTRONIC DEVICES CONFISCATED PURSUANT TO THIS ORDER.
COMM 091922 SNL SEE MD. RULE 16-208(B)(1). AUTHORIZED MEMBERS OF THE MEDIA
COMM 091922 SNL ARE PERMITTED TO USE SUCH ELECTRONIC EQUIPMENT IN THE
COMM 091922 SNL OVERFLOW SEATING SPACES. SUCH DEVICES CANNOT BE USED FOR

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS / EVENT COMMENT
COMM 091922	SNL				AUDIO OR VIDEO RECORDING OR STILL PHOTOGRAPHY IN ANY
COMM 091922	SNL				LOCATION IN THE COURTHOUSE. 13. MEMBERS OF THE MEDIA SHALL
COMM 091922	SNL				NOT USE CELLULAR PHONES WITHIN ONE-HUNDRED (100) FEET OF
COMM 091922	SNL				THE COURTROOM DURING THE COURSE OF PROCEEDINGS. UNLESS
COMM 091922	SNL				AUTHORIZED BY THE COURT, ALL ELECTRONIC DEVICES SHALL BE
COMM 091922	SNL				TURNED OFF DURING COURT PROCEEDINGS. THE COURT'S MEDIA
COMM 091922	SNL				LIAISON SHALL BE PERMITTED TO HAVE ELECTRONIC EQUIPMENT FOR
COMM 091922	SNL				ANY IMPORTANT MESSAGES OR EMERGENCIES THAT MAY ARISE. 14.
COMM 091922	SNL				NO FOOD OR DRINK IS PERMITTED IN THE COURTROOM. THE USE OF
COMM 091922	SNL				ANY LIGHTED TOBACCO PRODUCTS OR ELECTRONIC VAPORIZERS IS
COMM 091922	SNL				STRICTLY PROHIBITTED WITHIN THE COURTHOUSE. 15. COURT
COMM 091922	SNL				PERSONNEL SHALL NOT BE INTERVIEWED REGARDING THE ABOVE
COMM 091922	SNL				CAPTIONED MATTER OR THE PROCEEDINGS. 16. MEDIA CONFERENCES
COMM 091922	SNL				OR INTERVIEWS WITH THE COURT'S MEDIA LIAISON SHALL BE
COMM 091922	SNL				PERMITTED IN COURTROOM 509 CUMMINGS COURTHOUSE. MEMBERS OF
COMM 091922	SNL				THE MEDIA WILL BE ADVISED OF THE DESIGNATED SPACE AT THE
COMM 091922	SNL				START OF THE PROCEEDINGS BY THE COURT'S MEDIA LIAISON. 17.
COMM 091922	SNL				NO MEDIA CONFERENCES OR INTERVIEWS WITH ATTORNEYS, PARTIES,
COMM 091922	SNL				OR WITNESSES SHALL BE CONDUCTED WITHIN THE COURTHOUSE OR

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL WITHIN (50) FEET OF ANY ENTRANCE OF THE COURTHOUSE. NO
COMM 091922 SNL PERSONS MAY IMPEDE FOOT TRAFFIC ON THE SIDEWALKS IN FRONT
COMM 091922 SNL OF THE COURTHOUSE OR OBSTRUCT ACCESS TO THE COURTHOUSE. 18.
COMM 091922 SNL IF MEMBERS OF THE MEDIA BELIEVE THAT ANY ASPECT OF THIS
COMM 091922 SNL ORDER IS UNWORKABLE OR INAPPROPRIATE, THEY MAY REQUEST
COMM 091922 SNL MODIFICATION(S) ONLY IF SUCH REQUEST IS MADE IN SUFFICIENT
COMM 091922 SNL TIME IN ADVANCE OF THE PROCEEDINGS TO PERMIT THE COURT TO
COMM 091922 SNL REVIEW THE PROPOSED MODIFICATION(S). 19. ANY PERSONS FOUND
COMM 091922 SNL TO BE IN VIOLATION OF THIS ORDER SHALL BE SUBJECT TO A
COMM 091922 SNL REVOCATION OF ALL MEDIA PRIVILEGES AND, IF APPROPRIATE, TO
COMM 091922 SNL THE CONTEMPT POWERS OF THE COURT. SHERIFF'S DEPUTIES ARE
COMM 091922 SNL HEREBY AUTHORIZED TO ENFORCE COMPLIANCE WITH THIS ORDER AND
COMM 091922 SNL MAY REMOVE ANY PERSON WHO FAILS TO COMPLY WITH ANY PART OF
COMM 091922 SNL THIS ORDER. 20. NOTWITHSTANDING THIS ORDER, WHERE ANY
COMM 091922 SNL EMERGENCY CIRCUMSTANCES ARISE OR EXIST, ALL INDIVIDUALS
COMM 091922 SNL WITHIN AND AROUND THE COURTHOUSE ARE SUBJECT TO THE
COMM 091922 SNL DESIGNATIONS, INSTRUCTIONS, AND RESTRICTIONS ESTABLISHED TO
COMM 091922 SNL ADDRESS THE CIRCUMSTANCES. 21. THIS ORDER IS SUBJECT TO
COMM 091922 SNL MODIFICATION BY THE COURT AT ANY TIME PER JUDGE A. CARRION.

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL (CC: ALL PARTIES) COPIES OF THE ORDER SENT FROM CHAMBERS TO
COMM 091922 SNL ALL PARTIES PER ORDER.
COMM 091922 SNL DATE STAMPED 09/19/22, ORDER OF COURT DATED 09/17/22, 1.
COMM 091922 SNL BALTIMORE CITY SHERIFF'S OFFICE DEPUTIES (SHERIFF'S
COMM 091922 SNL DEPUTIES) ASSIGNED TO COURTROOM 556 ("THE COURTROOM"), OF
COMM 091922 SNL THE CUMMINGS COURTHOUSE, LOCATED AT 111 N. CALVERT STREET
COMM 091922 SNL BALTIMORE, MD 21202 ("THE COURTHOUSE"), SHALL IDENTIFY, IN
COMM 091922 SNL CONSULTATION WITH THE COURT, LIMITED, RESERVED SEATING IN
COMM 091922 SNL THE COURTROOM FOR AUTHORIZED MEDIA, ATTORNEYS AND LITIGANTS,
COMM 091922 SNL AS NECESSARY. THE PRESIDING TRIAL JUDGE SHALL BE THE
COMM 091922 SNL HONORABLE MELISSA M. PHINN. 2. ALL PERSONS ATTENDING THE
COMM 091922 SNL HEARING IN THIS MATTER SHALL BE SUBJECTED TO SCREENING OF
COMM 091922 SNL THEIR PERSON AND BELONGINGS AT THE ENTRANCES TO THE
COMM 091922 SNL COURTHOUSE. MEMBERS OF THE MEDIA ARE NOT EXEMPT FROM
COMM 091922 SNL SCREENING. 3. PURSUANT TO THE MEDIA PROTOCOL ORDER, ISSUED
COMM 091922 SNL ON SEPTEMBER 17, 2022, THE BALTIMORE CITY SHERIFF'S OFFICE
COMM 091922 SNL SHALL PROVIDE APPROPRIATE MEDIA CREDENTIAL IDENTIFICATION
COMM 091922 SNL CARDS TO MEMBERS OF THE MEDIA. 4. SHERIFF'S DEPUTIES SHALL
COMM 091922 SNL MONITOR THE COURTROOM AT ALL TIMES AND ARE HEREBY

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL AUTHORIZED TO REMOVE ANYONE WHO VIOLATES THIS SECURITY
COMM 091922 SNL ORDER, THE MEDIA PROTOCOL ORDER DATED SEPTEMBER 17, 2022,
COMM 091922 SNL OR AT THE DIRECTION OF THE COURT. MEDIA CREDENTIAL
COMM 091922 SNL IDENTIFICATION CARDS SHALL BE RESCINDED FROM MEMBERS OF THE
COMM 091922 SNL MEDIA WHO VIOLATE THESE ORDERS. ALL VIOLATORS SHALL BE
COMM 091922 SNL REFERRED TO THE COURT FOR APPROPRIATE SANCTIONS. 5.
COMM 091922 SNL SHERIFF'S DEPUTIES SHALL NOT PERMIT ANY DEMONSTRATION INSIDE
COMM 091922 SNL THE COURTHOUSE. NO ONE SHALL BE PERMITTED TO CONGREGATE
COMM 091922 SNL OUTSIDE THE COURTROOM (WITHIN FIFTY FEET OF THE ENTRANCE)
COMM 091922 SNL DURING THE COURSE OF THIS HEARING. ALL VIOLATORS SHALL BE
COMM 091922 SNL REMOVED FROM THE COURTHOUSE. 6. USE OF CELLULAR TELEPHONES
COMM 091922 SNL IS PROHIBITED WITHIN ONE-HUNDRED (100) FEET OF THE
COMM 091922 SNL COURTROOM. UNLESS AUTHORIZED BY THE COURT, ALL ELECTRONIC
COMM 091922 SNL DEVICES MUST BE TURNED OFF DURING COURT PROCEEDINGS. 7.
COMM 091922 SNL THIS SECURITY ORDER IS SUBJECT TO MODIFICATION BY THE
COMM 091922 SNL COURT AT ANY TIME PER JUDGE A. CARRION. (CC: ALL PARTIES)
COMM 091922 SNL COPIES OF THE ORDER SENT FROM CHAMBERS TO ALL PARTIES PER
COMM 091922 SNL ORDER.
COMM 091922 SNL ENTRY OF APPEARANCE

12:25:23 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922 SNL FILED ATV - KELLY, STEVEN J , ESQ 438801
COMM 091922 SNL YOUNG LEE'S MOTION FOR POSTPONEMENT & DEMAND FOR RIGHTS;
COMM 091922 SNL CC: JUDGE PHINN
COMM 091922 S8C ORDER DATED 9-19-22 AND DATE STAMPED 9-19-22; ORDERED THAT
COMM 091922 S8C DEFENDANT BE PLACED ON HOME DETENTION UNTIL DISPOSITION OF
COMM 091922 S8C THIS CASE UNDER THE SUPERVISION OF ALERT, A PRIVATE
COMM 091922 S8C ELECTRONIC HOME DETENTION PROGRAM AND THE DEFENDANT CONTACT
COMM 091922 S8C ALERT AT 410 913-2828 AND BEGIN SERVING HOME DETENTION
COMM 091922 S8C ON SEPTEMBER 19,2022. THE DEFENDANT IS SUBJECT TO THE
COMM 091922 S8C RULES, POLICIES AND PROCEDURES OF SAID PROGRAM, INCLUDING
COMM 091922 S8C PAYMENT OF SUPERVISION FEES.
COMM 091922 S8C IT IS FURTHER ORDERED THAT THE DEFENDANT, WITH THE PERMISSION
COMM 091922 S8C OF THE COURT, MAY BE ALLOWED TIME OUT THE RESIDENCE FOR THE
COMM 091922 S8C FOLLOWING PURPOSES: LAWFUL EMPLOYMENT AND TO SEEK LAWFUL
COMM 091922 S8C EMPLOYMENT IF UNEMPLOYED. ATTEND PERSONAL LEGAL APPOINTMENTS
COMM 091922 S8C PERSONAL FAMILY MEDICAL APPOINTMENTS. TO ATTEND MEETINGS
COMM 091922 S8C WITH ALERT AND PROBATION OFFICER AS DIRECTED. UP TO FOUR
COMM 091922 S8C HOURS PER WEEK, WITH THE PERMISSION OF THE COURT AND AT THE
COMM 091922 S8C DISCRETION OF ALERT, THE DEFENDANT MAY BE PERMITTED TO HAVE

12:25:23 Wednesday, November 30, 2022

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11/30/22  CRIMINAL  COURT  OF  BALTIMORE                    CASE INQUIRY  12:24
 CASE 199103042 ST C SYED, ADNAN                  928334  COD N DCM C 060399
EVENT DATE   OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 091922   S8C PERSONAL TIME FOR SHOPPING, BANKING AND PERSONAL HYGIENE AND
COMM 091922   S8C GROOMING, NO WINDOW SHOPPING IS PERMITTED. ALL ACTIVITIES
COMM 091922   S8C ARE TO BE COORDINATED WITH ALERT IN ADVANCE AND DOCUMENTED
COMM 091922   S8C PER PROGRAM RULES PER JUDGE PHINN.
COMM 091922   S8C CC: ALERT INC., PRETRIAL RELEASE, ASA FELDMAN, BECKY AND
COMM 091922   S8C APD SUTER, ERICA.
COMM 091922   S8C COPY GIVEN TO COURTROOM EDITING.  FAXED TO ALERT.
HCAL 091922 1 SNL P28;0200;540 ;HEAR;HR;GRNT;   ;PHINN, MELISSA ;8F1
COMM 091922   SNL STATE'S MOTION TO VACATE JUDGMENT OF CONVICTION IS HEREBY
COMM 091922   SNL HEARD AND GRANTED, DEFENDANT RELEASED ON OWN RECOGNIZANCE
COMM 091922   SNL WITH HOME DETENTION THROUGH ALERT. ORDER FILED.
COMM 092122   SNL DATE STAMPED AND ORDERED 09/19/22, THAT IN THE INTEREST OF
COMM 092122   SNL JUSTICE AND FAIRNESS, THE STATE'S MOTION TO VACATE JUDGMENT
COMM 092122   SNL OF CONVICTION IN THE MATTER OF ADNAN SYED AS TO INDICTMENT
COMM 092122   SNL #199103042, COUNT 1 - MURDER IN THE 1ST DEGREE; #199103043,
COMM 092122   SNL COUNT 1 - KIDNAPPING - ADULT; #199103045, COUNT 1 - ROBBERY;
COMM 092122   SNL AND #199103046, COUNT 2 - FALSE IMPRISONMENT, IS HEREBY
COMM 092122   SNL GRANTED; AND IT IS FURTHER ORDERED THAT THE DEFENDANT WILL
COMM 092122   SNL BE RELEASED ON HIS OWN RECOGNIZANCE AND PLACED ON HOME

NEXT PAGE                              P/N                        PAGE 064
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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 092122	SNL					DETENTION WITH GPS MONITORING WITH ALERT, INC; AND IT IS
COMM 092122	SNL					FURTHER ORDERED THAT THE STATE SHALL SCHEDULE A DATE FOR A
COMM 092122	SNL					NEW TRIAL OR ENTER NOLLE PROSEQUI OF THE VACATED COUNTS
COMM 092122	SNL					WITHIN 30 DAYS OF THE DATE OF THIS ORDER PER JUDGE M. PHINN.
COMM 092122	SNL					(CC: ALL PARTIES) COPIES OF THE ORDER SENT FROM CHAMBERS TO
COMM 092122	SNL					ALL PARTIES PER ORDER.
COMM 092622	CSB					CSET ZRMH; P46; 10/19/22; CSB
COMM 092822	CCA					YOUNG LEE'S NOTICE OF APPEAL THE STATE'S MOTION TO VACATE
COMM 092822	CCA					FILED BY SYEVEN J. KELLY. DUE TO TRANSMIT ON 11-28-22.
COMM 092822	CCA					**********ASSIGNED TO CW**********
COMM 092922	SKW					MOTION TO STAY THE CIRCUIT COURT PROCEEDINGS PENDING
COMM 092922	SKW					RESOLUTION OF APPEAL & POINTS & AUTHORITIES IN SUPPORT
COMM 092922	SKW					THEREOF FILED. CC: JUDGE PHINN
COMM 093022	SNL					CSET HEAR; P28; 09/19/22; SNL
COMM 100622	SKW					NOTICE OF INTENTION TO RESPOND FILED; CC: JUDGE PHINN
COMM 101122	CSB					NP ENTERED IN COURT
CCAS 101122	S8P					CASE CLOSED - ALL COUNTS DISPOSED Q326
COMM 101122	S8P					NOLLE PROS ENTERED BY THE STATE AS TO ALL COUNTS. ANY
COMM 101122	S8P					WARRANTS RECALLED AS TO THIS CASE ONLY. DEFENDANT PRESENT

12:25:24 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399

EVENT DATE	OPER	PART	TIME	ROOM	REAS	/ EVENT COMMENT
COMM 101122	S8P					(ZOOM).
ACAS 101122	S8P					ACTIVATE TO CORRECT CALENDAR
HCAL 101122	S8P	1	P46	0900	540	;ZRMH;NP;JUDG; ;PHINN, MELISSA ;8F1
COMM 101122	S8P					CSET ZRME; P46; 10/11/22; S8P
CCAS 101122	S8P					CASE CLOSED - ALL COUNTS DISPOSED Q326
COMM 101122	CAA					NOLLE PROSEQUI ENTERED BY THE STATE AS TO ALL COUNTS. ANY
COMM 101122	CAA					WARRANTS RECALLED AS TO THIS CASE ONLY. DEFENDANT PRESENT
COMM 101122	CAA					ON ZOOM. NO COURT FILE.
EXMA 101222	1SI					EXPUNGEMENT FORM MAILED TO DEFENDANT
COMM 101222	CSU					DATE STAMPED & ORDERED 10/12/22; THAT THE VICTIM'S MOTION
COMM 101222	CSU					TO STAY CIRCUIT COURT PROCEEDINGS PENDING RESOLUTION OF
COMM 101222	CSU					APPEAL IS HEREBY MOOT PER JUDGE PHINN. COPIES WERE SENT TO
COMM 101222	CSU					ALL PARTIES BY CHAMBERS.
HCAL 101922	CSB		P46	0900	540	;ZRMH; ;CANC; ;PHINN, MELISSA ;8F1
COMM 101922	CAA					CASE DISPOSED AND NOLLE PROSEQUI ENTERED ON 10-11-22 PER
COMM 101922	CAA					JIS. NO FILES IN COURT.
COMM 111722	CCA					ORIGINAL PAPERS FORWARDED TO COSA VIA FED-EX TRACKING #'S
COMM 111722	CCA					8176-0777-2202, 8176-0777-2187, 8176-0777-2165,
COMM 111722	CCA					8176-0777-2143, 8176-0777-2132, 8176-0777-2198, FOR A TOTAL

\LTIMORE CASE INQUIRY 12:24
928334 COD N DCM C 060399
REAS / EVENT COMMENT
() BINDERS,(5) PC(#10432) BINDERS, (11)
TRANSCRIPTS.
IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W
112399

[redacted]
334739 040700 1007 N CALVERT STREET
BALTIMORE MD 21202
570086 110999 13009 BOTTOM ROAD
HYDES MD 21082
599824 020916 300 COURTHOUSE WEST

[redacted]
613950 031122 231 E BALTIMORE ST SUITE 1102
BALTIMORE MD 21202
868429 060299 STS ATTORNEY OFFICE
BALTIMORE MD 21202
927010 031522 110 N CALVERT ST
BALTIMORE MD 21202
98190 020916 0 E MULBERRY ST
BALTIMORE MD 21202

P/N PAGE 067

[redacted]

WIS ALI, YASSAR

WIS BILLINGSLEY, PETER

WIS BUTLER, INEZ MS

WIS CHAUDRY, SAAD

NEXT PAGE

12:25:26 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BAI
CASE 199103042 SI C SYED, ADNAN
CON FULL NAME/PHONE NUMBER
WIS CLINEDINST, DONALD

WIS EFRON, MS

WIS GILBERT-NICHOLSON, PAMELA MS

WIS GORDON, JADAN

WIS GRAHAM, GRANT DR

WIS KIM, TAE

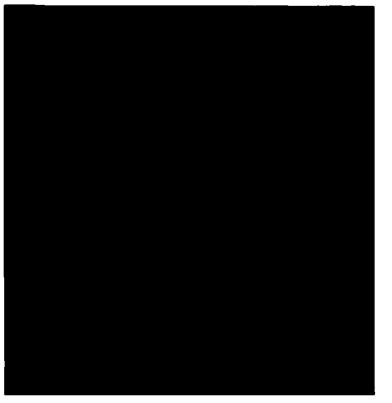
WIS KORELL, MARGARITA DR

WIS KRAMER, DONALD MRS

WIS LEE, YOUN

WIS MCPHERSON, STEPHANIE

NEXT PAGE



12:25:27 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BA
CASE 199103042 ST C SYED, ADNAN
CON FULL NAME/PHONE NUMBER
WIS MICHEL, CATHY

WIS MYERS, KRISTA

WIS O'SHEA, J DET

WIS PAOLETTI, DONNA MS

WIS PHILIPSEN, NINA

WIS PITTMAN, AISHA

WIS PUSATERI, JENNIFER

WIS RODRIGUEZ, WILLIAM DR

WIS SCHAB, HOPE

WIS SCHRIELER, DAVID

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12:25:27 Wednesday, November 30, 2022

11/30/22 CRIMINAL COURT OF BA
CASE 199103042 ST C SYED, ADNAN
CON FULL NAME/PHONE NUMBER
WIS TANNA, NISHA

WIS VINSON, KRISTINA

WIS VINSON, KRISTINA

WIS WALKER, REBECCA

WIS WARREN, DEBBIE

WIS WATTS, SHARON

WIS WATTS, SHARON

WIS WDUIE, MONICA ANN

WIS WOODLEY, LYNETTE

PO BIARA, SAL TECH TRACE ANAL

NEXT PAGE

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11/30/22 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:24
CASE 199103042 ST C SYED, ADNAN 928334 COD N DCM C 060399
CON FULL NAME/PHONE NUMBER IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W
PO HASTINGS, KIRK 090399 CID

PO MACGILLIVARY, GREG 041499 CID

PO RITZ, WILLIAM DET 041499 CID

PO SANDERS, FRANK MOBILE 090399 LD

PO TALMADGE, SHARON TECH LATENT P 090399 LD

END OF DATA P/1 PAGE 072

STATE OF MARYLAND	2022 SEP 19 PM 4:24	**IN THE**
VS.		**CIRCUIT COURT**
ADNAN SYED	*	**FOR**
Defendant	*	**BALTIMORE CITY**
	*	**Case Nos.: 199103042-46**

* * * * * * * * * * * *

ORDER

The above-captioned matter came before the Court on the State's Motion to Vacate Judgment on September 19, 2022. Upon consideration of the papers, in camera review of evidence, proceedings, and oral arguments of counsel made upon the record, the Court finds that the State has proven grounds for vacating the judgment of conviction in the matter of Adnan Syed. Specifically, the State has proven that there was a Brady violation. Maryland Rule 4-263(d)(5) requires the State to disclose, without request, all material or information in any form whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged. Additionally, the State has discovered new evidence that could not have been discovered by due diligence in time for a new trial under Md. Rule 4-331(c) and creates a substantial or significant probability that the result would have been different. It is this 19th day of **September, 2022**, by the Circuit Court for Baltimore City:

ORDERED that in the interest of justice and fairness, the State's Motion to Vacate Judgment of Conviction in the matter of Adnan Syed as to indictment #199103042, count 1 –

murder in the 1st degree; #199103043, count 1 – kidnapping - adult; #199103045, count 1 – robbery; and #199103046, count 2 – false imprisonment, is hereby **GRANTED**[1]; and it is further

ORDERED that the Defendant will be released on his own recognizance and placed on home detention with GPS monitoring with ALERT, Inc.; and it is further

ORDERED that the State shall schedule a date for a new trial or enter nolle prosequi of the vacated counts within 30 days of the date of this Order.

Judge Melissa Phinn
Judge's Signature Appears
on Original Document Only

Judge Melissa Phinn

NOTICE TO CLERK:
COPIES SENT TO ALL PARTIES.

TRUE COPY
TEST
Marilyn Bentley
MARILYN BENTLEY, CLERK

COURT FOR BALTIMORE

[1] As to indictment #119103044, judgment of acquittal was granted by the Court as to count 1 – robbery (accessory before the fact) and the State entered nolle prosequi as to counts 2 and 3.

Young Lee, As Victim's Representative v. State of Maryland, et al., No. 1291, September Term, 2022. Opinion by Graeff, J.

CRIMINAL PROCEDURE — VICTIMS' RIGHTS — VACATUR OF CONVICTIONS — NOLLE PROSEQUI — MOOTNESS

The State's entry of a nolle prosequi did not render the Mr. Lee's appeal moot under the circumstances of this case. Although the State's Attorney generally has broad discretion, free from judicial control, to enter a nolle prosequi, this authority is not unfettered. Rather, the courts will temper the State's authority in exceptional circumstances, such as where entry of a nolle prosequi violates fundamental fairness, and in at least some circumstances, where it circumvents the right to appeal.

The entry of the nol pros in this case, entered shortly before a response to Mr. Lee's motion to stay proceedings was due, and before the 30-day deadline provided by Maryland Rule 4-333(i) for the State to either enter a nolle prosequi or take other appropriate action, was done with the purpose or "necessary effect" of preventing Mr. Lee from obtaining a ruling on appeal regarding whether his rights as a victim's representative were violated. Under the unique facts and circumstances of this case, exceptional circumstances exist to temper the authority of the State to enter a nol pros. The nol pros was void, it was a nullity, and it does not render this appeal moot.

Md. Code Ann., Crim. Proc. Art. ("CP") § 8-301.1(a) (Supp. 2022) provides that, on the State's motion, the court may vacate a conviction under certain circumstances. The statute provides victims with the right to prior notice of the hearing on a motion to vacate and the right to attend the hearing. CP § 8-301.1(d). These rights were violated in this case, where the State gave Mr. Lee notice only one business day before the hearing, which was insufficient time to reasonably allow Mr. Lee, who lived in California, to attend the hearing in person, and therefore, the court required Mr. Lee to attend the hearing remotely.

Although remote proceedings can be valuable in some contexts, where, as here, a crime victim or victim's representative conveys to the court a desire to attend a vacatur hearing in person, all other individuals involved in the case are permitted to attend in person, and there are no compelling reasons that require the victim to appear remotely, a court requiring the victim to attend the hearing remotely violates the victim's right to attend the proceeding. Allowing a victim entitled to attend a court proceeding to attend in person, when the victim makes that request and all other persons involved in the hearing appear in person, is consistent with the constitutional requirement that victims be treated with dignity and respect.

A victim does not have a statutory right to be heard at a vacatur hearing. The court, however, has discretion to permit a victim to address the court at a vacatur hearing regarding the impact of the court's decision on the victim and/or the victim's family.

Because the circuit court violated Mr. Lee's right to notice of, and his right to attend, the hearing on the State's motion to vacate, in violation of CP § 8-301.1(d), this Court has the power and obligation to remedy those violations, as long we can do so without violating Mr. Syed's right to be free from double jeopardy. We can do that, and accordingly, we vacate the circuit court's order vacating Mr. Syed's convictions, which results in the reinstatement of the original convictions and sentence. We remand for a new, legally compliant, and transparent hearing on the motion to vacate, where Mr. Lee is given notice of the hearing that is sufficient to allow him to attend in person, evidence supporting the motion to vacate is presented, and the court states its reasons in support of its decision.

Circuit Court for Baltimore City
Case No. 199103042

REPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1291

September Term, 2022

YOUNG LEE, AS VICTIM'S REPRESENTATIVE

v.

STATE OF MARYLAND, ET AL.

Wells, C.J.,
Graeff,
Berger,

JJ.

Opinion by Graeff, J.
Berger, J., dissents.

Filed: March 28, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

This appeal involves convictions dating back to 2000, when a jury in the Circuit Court for Baltimore City convicted Adnan Syed, one of the appellees, for, among other things, the 1999 murder of 17-year-old Hae Min Lee.[1] The court imposed an aggregate sentence of life plus 30 years, and Mr. Syed filed multiple, ultimately unsuccessful, challenges to his convictions in the years that followed.[2]

In September 2022, the State, also an appellee, filed in the Circuit Court for Baltimore City a motion to vacate Mr. Syed's convictions pursuant to Md. Code Ann., Crim. Proc. Art. ("CP") § 8-301.1 (Supp. 2022) (the "vacatur statute"). After a hearing, the court granted the motion and vacated Mr. Syed's convictions.

Young Lee, Hae's brother, appealed to this Court, arguing that the circuit court erred in entering judgment without giving him adequate notice of the vacatur hearing, or a meaningful opportunity to appear and be heard on the merits of the motion to vacate, in violation of the victims' rights provided for in CP §§ 11-101 to 11-619 (2018 Repl. Vol. &

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[1] We shall refer to Hae Min Lee by her first name because she and appellant, Young Lee, have the same surname. We do so for clarity and intend no familiarity or disrespect. *See Syed v. State*, 236 Md. App. 183, 193 (2018) (referring to the victim by her first name "Hae"), *rev'd*, 463 Md. 60 (2019).

[2] This Court affirmed Mr. Syed's convictions in an unreported opinion in 2003. *See Syed v. State*, No. 923, Sept. Term, 2000 (filed March 19, 2003), *cert. denied*, 376 Md. 52 (2003). In 2010, Mr. Syed filed a petition for post-conviction relief, which the circuit court denied in 2014. *Syed*, 236 Md. App. at 193. Mr. Syed filed an application for leave to appeal, which this Court granted, ordering a limited remand. *Id.* at 194. In 2016, after further proceedings, the circuit court granted the petition and granted Mr. Syed a new trial. *Id.* This Court, in a split decision, held that trial counsel's failure to investigate a potential alibi witness was deficient performance that resulted in prejudice, and therefore, a new trial was warranted. *Id.* at 285–86. The Supreme Court of Maryland reversed. *State v. Syed*, 463 Md. 60, 104–05, *cert. denied*, 140 S. Ct. 562 (2019).

Supp. 2022). He subsequently filed, in the circuit court and this Court, a motion to stay further circuit court proceedings. On October 11, 2022, two days before a response to the motion filed in this Court was due, the State entered a nolle prosequi on all charges against Mr. Syed.[3] On October 12, 2022, in light of the State's action, this Court entered an order denying the motion to stay and ordering Mr. Lee to show cause why this appeal should not be dismissed as moot.

On November 4, 2022, after the parties filed responses, this Court ordered that the appeal would proceed, and we directed the parties to brief the following issues on appeal:

1. Whether the appeal is moot.

2. If the appeal is moot, whether this Court should exercise its discretion to issue an opinion on the merits of Mr. Lee's crime victims' rights claim.

3. Whether the notice that Mr. Lee received in advance of the circuit court's vacatur hearing complied with the applicable constitutional provisions, statutes, and rules.

For the reasons set forth below, we conclude that the case is not moot, and the court did not provide Mr. Lee with the rights to be afforded a victim or victim's representative pursuant to the applicable constitutional provisions and Maryland statutes. Accordingly,

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[3] As discussed in more detail, *infra*, a nolle prosequi, or "nol pros," is "an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *State v. Huntley*, 411 Md. 288, 291 n.4 (2009) (citing *Ward v. State*, 290 Md. 76, 83 (1981)). *Accord* Md. Code Ann., Crim. Proc. Art. ("CP") § 1-101(k) (2018 Repl. Vol.) (defining "nolle prosequi" as "a formal entry on the record by the State that declares the State's intention not to prosecute a charge").

we shall vacate the judgment of the circuit court and remand for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

The underlying facts and proceedings have been detailed in previous reported opinions. *See State v. Syed*, 463 Md. 60, *cert. denied*, 140 S. Ct. 562 (2019); *Syed v. State*, 236 Md. App. 183 (2018), *rev'd*, 463 Md. 60 (2019). With respect to the initial convictions, we need not set forth a comprehensive discussion of the evidence, but we note the following "substantial direct and circumstantial evidence," *Syed*, 463 Md. at 97, previously set forth regarding Mr. Syed's guilt:

> [Jay] Wilds testified that Mr. Syed had complained of [Hae's] treatment of him and said that he intended "to kill that bitch." Mr. Wilds claimed to have seen the body of [Hae] in the trunk of her car at the Best Buy parking lot.[4] [Jennifer] Pusateri, a friend of Mr. Wilds, told police, and testified at trial consistent with those statements, that Mr. Wilds told her that [Hae] had been strangled. At the time Ms. Pusateri relayed this information to the police, the manner of [Hae's] death had not been publicly released. Mr. Syed's cell phone records showed him receiving a call in the vicinity of Leakin Park at the time that Mr. Wilds claimed he and Mr. Syed were there to bury [Hae's] body. Mr. Wilds directed the police to the location of [Hae's] abandoned vehicle, which law enforcement had been unable to find for weeks. Mr. Syed's palm print was found on the back cover of a map book that was found inside [Hae's] car; the map showing the location of Leakin Park had been removed from the map book. Various witnesses, including Ms. Pusateri, Nisha Tanna, and Kristina Vinson, testified to either seeing or speaking by cell phone with Mr. Wilds and Mr. Syed together at various times throughout the afternoon and evening on January 13, 1999.

[4] Mr. Wilds testified that, "while he and Mr. Syed were standing near [Hae's] car in the Best Buy parking lot, Mr. Syed showed [him] [Hae's] body in the trunk and boasted, 'I killed somebody with my bare hands.'" *Syed*, 463 Md. at 89.

Id. at 93. "The medical examiner determined that [Hae] had died by strangulation." *Id.* at 96. With respect to Mr. Syed's motive to kill Hae, "the State presented evidence that [Mr. Syed] was jealous and enraged at [Hae's] new romantic relationship with another man." *Id.* at 95–96.

Mr. Syed's own statements regarding his actions on the day Hae disappeared were inconsistent. *Id.* at 90, 93. He told police on the night of her disappearance, January 13, 1999, that he was supposed get a ride home from her, but he got detained at school and assumed she left without him. *Id.* at 90. Two weeks later, on January 25, 1999, he told police that he drove his own car to school and had not arranged to ride with Hae. *Id.* A month later, on February 26, 1999, Mr. Syed said that he could not remember what he did on the day Hae disappeared. *Id.*

I.

Motion to Vacate

On September 14, 2022, the State filed a motion to vacate Mr. Syed's convictions pursuant to CP § 8-301.1. The motion alleged that, after a "nearly year-long investigation," the State and the defense "uncovered *Brady*[5] violations and new information, all concerning the possible involvement of two alternative suspects." The motion further alleged that the State and the defense had also identified "significant reliability issues regarding the most critical pieces of evidence at trial." The State noted that investigative efforts were ongoing, and it was not asserting that Mr. Syed was innocent. It stated,

[5] *Brady v. Maryland*, 373 U.S. 83 (1963).

however, that it no longer had "confidence in the integrity of the conviction," and therefore, it believed that it was in the interests of justice that the convictions be vacated and that Mr. Syed, "at a minimum, be afforded a new trial." The State advised that, if the motion was granted, the decision to proceed with a new trial or enter a nol pros of the charges was "contingent upon the results of the ongoing investigative efforts."[6]

A.

***Brady* Violations and New Information**

The motion alleged that the State had developed evidence that suggested the possible involvement of two alternative suspects. Initially, it located a document indicating that a person provided information to the State that one of the suspects had motive to kill Hae, had threatened to kill her in the presence of another individual, and said that "he would make . . . [Hae] disappear. He would kill her." The second document indicated that a different person gave information "that can be viewed as a motive for that same suspect to

[6] We note that, despite these statements and the assertion that "the State is not asserting at this time that [Mr. Syed] is innocent," less than one week later, on September 20, 2022, then-Baltimore City State's Attorney Marilyn Mosby stated that she intended to "certify that [Mr. Syed was] innocent," unless his DNA was found on items submitted for forensic testing. *See* Mike Hellgren, *Mosby Says If DNA Does Not Match Adnan Syed, She Will Drop Case Against Him*, CBS News Balt. (Sept. 20, 2022, 11:22 PM), http://www.cbsnews.com/baltimore/news/mosby-says-if-dna-does-not-match-adnan-syed-she-will-drop-case-against-him. Ms. Mosby did not explain why the absence of Mr. Syed's DNA would exonerate him. *See Edwards v. State*, 453 Md. 174, 199 n.15 (2017) (where there was no evidence that the perpetrator came into contact with the tested items, the absence of a defendant's DNA "would not tend to establish that he was not the perpetrator of th[e] crime").

harm the victim."[7] The State alleged that this information was not in defense counsel's trial file, and it was not included in any of the State's discovery disclosures. The motion alleged that the failure to disclose this alternative suspect information was material and would have been helpful to the defense. The motion then noted in a footnote, however, that, "[i]f this information was indeed provided to [the] defense, then minimally, the failure to utilize this evidence would constitute ineffective assistance of trial counsel."

The motion alleged that new evidence had been found during the investigation in 2022, i.e., that the location where Hae's car was found, in a grassy lot behind the 300 block of Edgewood Avenue in Baltimore City, was known to one of the alternative suspects, and that person lived at that location in 1999. The State alleged that such information was not available to the defense at trial, and "it would have provided persuasive support substantiating the defense that another person was responsible for the victim's death."

The State indicated that it had new information that one of the alternative suspects had been convicted of violent acts, and one of the suspects had improperly been cleared as a suspect by a polygraph test. The State asserted that, "to protect the integrity of the on-

[7] In its response to Mr. Syed's motion to disqualify the Office of the Attorney General as counsel for the State of Maryland, filed in this Court on October 25, 2022, the State, through the Attorney General's Office, stated that, despite a "nearly year-long" investigation, the State's Attorney never contacted the Attorney General's Office or the person who prosecuted the case and authored the notes that were "subject to multiple interpretations."

going investigation, the names of the suspects, which suspect in particular, and the specific details of the information obtained will not be provided at this time."[8]

B.

Reliability of Trial Evidence

The State then alleged that, although the *Brady* violations justified the grant of a new trial, a review of the evidence gave the State additional concerns contributing to its conclusion that it no longer had faith in the integrity of the convictions. It discussed consultations with two expert witnesses who "called the reliability of the State's testimony at trial [regarding the cellphone location evidence] into question." It alleged that new information regarding Ms. Vinson's schedule on January 13, 1999, called into question her testimony that Mr. Wilds and Mr. Syed came to her home on January 13 at approximately 6:00 p.m., and during the visit, Mr. Syed received a call on his cell phone and quickly left.

The State asserted that it could not rely on Mr. Wilds' testimony alone, noting "concerning discrepancies" between Mr. Wilds' various statements, his testimony, the cell phone records, and the State's timeline at trial. Finally, the State alleged that, although it was not making any claims regarding the integrity of the police investigation, it was obligated to note the misconduct of Baltimore Police Detective William Ritz, one of the

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[8] CP § 8-301.1(b)(2) provides that a motion to vacate must "state in detail the grounds on which the motion is based," but the State's motion did not identify the two alternate suspects or explain why the State believed those suspects committed the murder without Mr. Syed. The note indicating that one of the suspects had motive to kill Hae is not part of the record on appeal, and in the State's October 25, 2022 response, the Office of the Attorney General stated that there is other information in the note that was relevant but not cited in the motion to vacate.

homicide detectives who initially investigated Hae's murder and Mr. Syed's involvement in the crime, in another case.

II.

Response to Motion to Vacate

That same day, on September 14, 2022, Mr. Syed filed a response to the State's motion to vacate. The response alleged that the *Brady* material described in the State's motion, i.e., that one of the alternate suspects threatened Hae's life and had motive to harm her, was not in the defense trial file and was not reflected in any of the State's discovery disclosures. Mr. Syed was not aware that such information existed, or that the State possessed it in its files, until 2022. He argued that the State's failure to disclose this information violated its discovery obligations under the Maryland Rules, the ethical duties of a prosecutor, and the constitutional requirements of *Brady*. The response also alleged that the recent revelations set forth in the State's motion to vacate "rightfully caused the State to lose faith in the integrity of this conviction." Mr. Syed argued that his convictions should not stand.

III.

Chambers Hearing

Two days later, on Friday, September 16, 2022, the court held an off-the-record discussion in chambers regarding the State's motion to vacate.[9] The prosecutor for the Baltimore City State's Attorney's Office ("SAO") stated at the vacatur hearing that she and

[9] We do not have a transcript of this discussion, and therefore, we merely summarize the parties' and the court's representations relating to the discussion.

defense counsel met with the court and showed the court the "two documents containing *Brady* information in camera last week." The court in its ruling also referred to its "in camera review of evidence." The record indicates that a date for the vacatur hearing the following Monday, September 19, 2022, also was determined during that meeting.

IV.

Notice to Mr. Lee

The prosecutor, Becky Feldman, advised the court at the beginning of the vacatur hearing regarding her communications with Mr. Lee. On Monday, September 12, 2022, she called Mr. Lee, who lived in California, and notified him that the State was going to file the motion to vacate. She told him "that there would be a hearing in this matter," and she asked whether he would like to be notified. Mr. Lee responded: "[A]bsolutely . . . let me know if there's a hearing." Ms. Feldman "did not ask, nor did he state that he would be present physically."

Ms. Feldman called Mr. Lee again the following day, Tuesday, September 13, 2022. She "let him know what was happening" and "what information [they] had developed." She also "went through the motion a bit" with Mr. Lee and emailed a copy of the motion to him that same day. Mr. Lee responded to the email by expressing disagreement with the State's decision to move to vacate the convictions. The motion to vacate was filed the next day, Wednesday, September 14, 2022.

The prosecutor stated at the vacatur hearing that right after the discussion with the court, at approximately 2:00 p.m. on Friday, September 16, 2022, she sent an email to Mr.

Lee, advising him that the court had "just scheduled an in-person hearing" for the following Monday, September 19, 2022, at 2:00 p.m. Ms. Feldman advised Mr. Lee:

> It's an in-person hearing, but I asked the court for permission for you and your family to watch the proceedings virtually (if you would like). So, if you would like to watch, the link is below. Please let me know if anybody from your family will be joining the link, so I will make sure the court lets you into the virtual courtroom.... Please let me know if you have any questions.

Mr. Lee did not respond to the email.

Because Ms. Feldman did not receive a reply from Mr. Lee, she texted him the day before the hearing, Sunday, September 18, 2022, to ensure that he received the email and was aware of the hearing. Mr. Lee responded to Ms. Feldman's text message that "he was aware and that he would attend via Zoom link."

V.

Motion for Postponement

On the morning of Monday, September 19, 2022, Mr. Lee filed a motion to postpone the hearing on the State's motion to vacate. In support, Mr. Lee argued that permitting the hearing to occur as scheduled would violate the crime victims' rights of the Lee family "in three critical respects": (1) the SAO failed to reasonably inform Mr. Lee of the State's motion to vacate and the hearing on the motion; (2) Mr. Lee would be denied the right to be present and heard at the proceeding if the hearing moved forward as planned; and (3) Mr. Lee could not meaningfully participate in the hearing because the State's Attorney failed to inform him of the facts supporting the motion to vacate.

Mr. Lee alleged that, although the State's Attorney investigated the case for more than one year, "her office waited until the Friday before the motions hearing to notify the

family of the Monday, 2:00 p.m. hearing." He alleged that the State's Attorney was "fully aware" that he lived in Los Angeles and "would almost certainly be unable to fly to Baltimore on half a business day's notice." Although Ms. Feldman previously had informed him by email that he and his family could "watch the proceedings virtually," the Lee family wanted to be physically present at the in-person hearing, and the "notice provided was patently insufficient to permit that to happen." Additionally, Ms. Feldman's email did "not even mention [the Lee family's] right to speak at the hearing, suggesting they [had] none, though they plainly do under Maryland law."

Mr. Lee further alleged that, even if the Lee family could attend the hearing in person, they "could not meaningfully participate and be heard" because the motion to vacate "presents no factual basis for vacating the sentence," and the State's Attorney's Office had not "disclosed the factual basis to the family through other means." In this regard, the motion to vacate did not name any alternate suspects, and it failed to support "an inference that one or more alternative suspects exists." The motion instead "alludes to an 'ongoing' investigation and rehashes arguments that the Court of Appeals rejected when it affirmed Mr. Syed's conviction in 2019." [10] Accordingly, Mr. Lee requested that the court postpone the hearing on the motion to vacate by seven days and direct the SAO to pay for Mr. Lee's travel to Baltimore using unspent victim relocation funds.

[10] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

VI.

Vacatur Hearing

Later that day, the court held a hearing on the State's motion to vacate. Ms. Feldman appeared for the State. Defense counsel, Erica Suter, and counsel for Mr. Lee, Steven Kelley, also appeared at the hearing.

A.

Argument on the Motion to Postpone

The court heard argument from counsel for Mr. Lee regarding the motion to postpone. He noted that he was "not prepared to address" and did not "want to address the merits" of the motion to vacate. Instead, he was present "strictly as a matter of victim's rights" and "[s]trictly on the issue of the right of th[e] [Lee] family to meaningfully participate."

Counsel argued that, pursuant to CP § 11-102, a crime victim or victim's representative (hereafter sometimes referred to collectively as "victim") has the same right to be present at proceedings as the defendant. In this case, "giving a late afternoon notice to a family of Korean national immigrants on a Friday afternoon for a motion that has been contemplated for one year, according to the State's filings," was "patently unreasonable" and afforded no opportunity for Mr. Lee to be present. Counsel also argued that it was unreasonable for the State to fail "to give any kind of notice as to what it is that has caused the concern on the part of the [SAO]." Counsel disagreed with the State's position that "the victim of a crime in Maryland has no right to meaningful[ly] participate in this proceeding." He asserted that, under the relevant constitutional provisions, statutes, and

rules, a crime victim or victim's representative has "a meaningful opportunity to participate." Recognizing "there are real liberty issues at stake for Mr. Syed," counsel requested that the court grant a postponement of the vacatur hearing for "a very reasonable amount of time, seven days" for Mr. Lee to attend the hearing in person "and to meaningfully participate."

Before ruling on the motion to postpone, the court asked Mr. Lee's counsel: "What is attendance, what is presence?" The court noted in this regard that, since the beginning of the COVID-19 pandemic in 2020,

> we have been conducting [c]ourt in a lot of jurisdictions around the country via Zoom.
>
> So as far as the Maryland [R]ules [are] concerned, 4-231(e), electronic proceedings are allowed in the [c]ircuit [c]ourt for any [c]ircuit [c]ourt. And we do them here every day.[11]
>
> So if Mr. Lee, as he informed Ms. Feldman, intended to attend the hearing today, his presence would be known here today on the Zoom.

The court stated that, based on its review of the statutes and rules, there was nothing, with respect to the motion to vacate, that "indicates that the victim's family would have a right to be heard." The court stated, however, that, "of course, if Mr. Lee was present today on the Zoom and he wanted to speak, [it] would allow him to speak." In this regard, the court asked Mr. Lee's counsel:

> Are you not aware that . . . by him telling us on Friday that he was going to appear via Zoom is why we set this hearing today? Because had we known that on Friday then, of course, we would have scheduled this hearing

[11] Rule 4-231(e) provides that a circuit court may conduct an initial appearance of the defendant or a review of the District Court's release determination in specified circumstances.

> according to when he was planning to arrive within a reasonable amount of time. So he didn't do that.

The court stated that "counsel and I have been in close communication about this case procedurally since Friday."

Mr. Lee's counsel disagreed with the court's statement that, on the previous Friday, Mr. Lee advised that he would appear by Zoom, asserting that Mr. Lee "did not state . . . at any time" on Friday, September 16, 2022, "that he would participate." Ms. Feldman then confirmed that the text message from Mr. Lee stating that he would participate by Zoom was on Sunday, September 18, 2022, at 4:08 p.m. The court advised that, "had [Mr. Lee] told Ms. Feldman that he didn't want to participate via Zoom and wanted to be in person, she would have communicated that to [the court] and then we would have taken the appropriate steps."

In response, counsel for Mr. Lee argued "that's not adequate notice under Maryland law." He stated that Mr. Lee is "a layman" who "didn't know any better," and he "was trying to get counsel" after being "told by the State's Attorney's Office that he didn't have the right to meaningful[ly] participate in this hearing." The court responded that CP § 8-301.1 said "notice," but it did not say "reasonable notice." Mr. Lee's counsel stated "that reasonableness is a standard that's been long applied," and under that standard, one day's notice was not adequate. He expressed his belief that there was not "any appellate court that would find this notice reasonable."[12]

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[12] Counsel for Mr. Lee then requested that, if the court denied the motion to postpone, the case "be stayed pending appellate review." The court did not explicitly rule

The State argued that CP § 8-301.1 "just requires notice and attendance." Ms. Feldman clarified, however, that it was not the position of the SAO to "object in any way to someone being present and participating if they wanted to." She noted that, although "this is an in-person hearing," she "asked [for] this to be by Zoom" and established with the court "this arrangement in case [Mr. Lee] would like . . . to observe the hearing." She also noted that, as soon as she returned to her office on Friday, September 16, 2022, she emailed Mr. Lee, "knowing what the new date was," and she "would never tell a victim ever that they did not have the right to attend or make a statement."

The court denied the motion to postpone. At the request of counsel for Mr. Lee, the court declared a 30-minute recess so that Mr. Lee could leave work and "get home" to join the hearing in a private place where he could participate.

B.

Mr. Lee's Statement

The court reconvened at 3:35 p.m., and Mr. Lee joined the vacatur hearing remotely via Zoom. The following then ensued:

> THE COURT: You're here today to make a statement and the [c]ourt is ready to hear from you.
>
> MR. LEE: Thank you, Your Honor. Thank you for giving this time to speak.
>
> I'm sorry if I – sorry, my heart is kind of pounding right now.

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on the request at the vacatur hearing, but it implicitly denied the request by proceeding with the hearing. *See Frase v. Barnhart*, 379 Md. 100, 116 (2003) ("'[W]hile it is certainly the better practice to specifically rule on all pending motions, the determination of a motion need not always be expressed but may be implied by an entry of an order inconsistent with the granting of the relief sought.'") (quoting *Wimberly v. Clark Controller Co.*, 364 F.2d 225, 227 (6th Cir.1966)).

THE COURT: That's fine.

MR. LEE: I apologize. There was some issues with Zoom. I personally wanted to be there in person, but Your Honor, it's – I've been living with this for 20 plus years and every day when I think it's over, when I look and think it's over or it's ended, it's over. It always comes back. And it's not just me, killing me and killing my mother and it's really tough to just going through this again and again and again. I believe in the justice system, the [c]ourt, the State, and I believe they did a fine job of prosecuting Mr. Syed. And I believe the [j]udge did make the right decision, but just going through it again it's living a nightmare over and over again. It's tough.

And I am not – like I said before, I trust the court system and just trust in the justice system and I am not against – it's really – it was kind of – I was kind of blind [sided]. I always thought the State was on my side, you know, but I don't know where – I hear that there's a motion to vacate judgment and I thought honestly I felt honestly betrayed, why is my – I kept thinking to myself, why is the State doing this.

And I am not against an investigation or anything of that sort that Ms. Feldman is doing. I am not against it at all. It just – but the motion just to vacate judgment, it just – it's really tough for me to swallow, especially from – I am not an expert in legal matters, in law or anything like that, but I ask you . . . just to make a right decision that you see. But just this motion, I feel that it's unfair, especially for my family just to live through it all and knowing that there's somebody out there just free of killing my sister. It's tough.

And I just wanted to say this in person, but I didn't know I had the opportunity, but I just – and it's tough. Yeah. It's tough, it's tough. This is not a [indiscernible] for me, it's just real life, never ending after 20 plus years.[13] Just on the thought that [indiscernible]. I just want the judge to know like the stuff that we're going through, our family, it's killing us. And I ask . . . that you make the right decision. That's all, Your Honor.

THE COURT: All right. Thank you, Mr. Lee.

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[13] Subsequent media reports indicated that Mr. Lee said: "This isn't a podcast for me, it's real life." *See, e.g.*, Aya Elamroussi & Sonia Moghe, *The Family of Hae Min Lee Requests Maryland Court to Halt Legal Proceedings in Adnan Syed's Case*, CNN (Oct. 6, 2022, 9:00 AM), http://www.cnn.com/2022/10/06/us/adnan-syed-hae-min-lee-serial-case-family-motion/index.html.

The court noted "how difficult" and "very emotional" the day was for Mr. Lee and his family. It stated to Mr. Lee: "I appreciate you joining the Zoom this afternoon to make this statement because it is important to hear from the victim or the victim's representative. And I thank you for doing that this afternoon, sir." Mr. Lee responded to the court: "You're welcome, Your Honor. Thank you for hearing me."

Counsel for Mr. Lee requested the court's permission to "just say a couple of sentences" following Mr. Lee's statement, but the court denied counsel's request and did not allow counsel to present any further argument. The court then found that the State had met the notice requirement set forth in CP § 8-301.1, and it stated that the hearing would commence at that time.

C.

Hearing on the Motion to Vacate

Ms. Feldman argued that the State was "proceeding under the second standard" set forth in CP § 8-301.1, i.e., that the SAO received new information after the judgment of conviction that called into question the integrity of the conviction and the interest of justice and fairness justified vacating the conviction. She acknowledged that the procedural posture of the motion to vacate was "unusual" because the State's Attorney's Office would be continuing its investigation even if the motion to vacate is granted. She stated: "[The State] will not be asking the [c]ourt to dismiss the case at this time. Instead, we are requesting that a trial be set in."

The SAO began its reinvestigation in October 2021. The initial review generated "some concerns," and in March 2022, the SAO requested, and the circuit court approved, touch DNA testing of Hae's clothing. Such testing had not previously been performed.

In June 2022, Ms. Feldman discovered documentary "*Brady* material" in the State's trial file, which she immediately disclosed to Mr. Syed's counsel. She stated that the additional information indicated that there was at least one individual, other than Mr. Syed, who "was a credible alternative suspect with a motive." The State did not move to vacate Mr. Syed's convictions at that time because it was waiting for the results of the touch DNA testing. It then conducted a "lengthy" investigation of the alternate suspects.

Ms. Feldman marked her signed affidavit, dated September 19, 2022, as State's Exhibit No. 1. She proceeded to "read a few of the most relevant portions" of her affidavit on the record. In the affidavit, Ms. Feldman discussed the discovery of the *Brady* material in the State's trial file, as follows:

> • Ms. Feldman started working for the SAO in December 2020, when she became Chief of its Sentencing Review Unit.
>
> • Ms. Suter approached the SAO regarding her client, Mr. Syed, and the possibility of pursuing on his behalf a motion under Maryland's Juvenile Restoration Act.[14]
>
> • On October 2, 2021, Ms. Suter transferred case and mitigation-related materials to Ms. Feldman, who "began reviewing the case soon thereafter."

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[14] The Juvenile Restoration Act, 2021 Md. Laws ch. 61 (codified at CP §§ 6-235, 8-110), which went into effect on October 1, 2021, allows individuals convicted as juveniles (i.e., individuals under the age of 18), who have served at least 20 years in prison, to file a motion with the court to request a reduction of their sentence. *See* CP § 8-110 (a), (b). The State's Attorney's Office's Sentencing Review Unit "reviews and responds to all Juvenile Restoration Act motions filed in Baltimore City."

• Approximately seven months later, on May 12, 2022, Ms. Feldman contacted the Office of the Attorney General, requesting the State's trial file and in particular "any reports regarding the investigation," "cell phone reports & records," and "witness interviews."

• Ms. Feldman does not know how and where the State's trial file was maintained between 1999 and the time when it was delivered to the Attorney General's Office.

• Ms. Feldman does not know when the State's trial file was delivered to the Attorney General's Office.

• On June 22, 2022, Ms. Feldman accessed the record at the Attorney General's Office and "was able to go through several of the boxes and photocopied various documents." When she scanned the documents and sent them to Ms. Suter later that same day, Ms. Feldman discovered "that 2 of the documents [she] scanned contained potential *Brady* material."

• The two documents "were handwritten by either a prosecutor or someone acting on their behalf." They were "detailed notes of two separate interviews of two different people contacting the [SAO] with information about one of the suspects."

• One of the interviews occurred in January 2000, approximately one month before Mr. Syed was convicted of Hae's murder. The information relayed to the SAO was that one of the suspects was "upset" with Hae and "he would make her . . . disappear. He would kill her." The other interview, which occurred in October 1999, was with a different person, who relayed "a motive for that same suspect to harm the victim." Both documents were difficult to read because the handwriting was poor. The handwriting was consistent with that in other handwritten documents in the State's trial file.

• Based on the information from those interviews, Ms. Suter and Ms. Feldman "conducted a fairly extensive investigation." Based on the investigation, the State believed "that this suspect had motive, opportunity, and means to commit this crime." That investigation "remain[ed] ongoing" at the time.

• The two documents that Ms. Feldman discovered were not in the defense attorney's trial file, "nor were there any notes that resembled, in any way, the information that was contained in the State's notes." The information "also was not contained in any of the disclosures made by the State during the

trial." Ms. Feldman and Ms. Suter "were both shocked to see these documents."

• Due to "the concerning nature of the *Brady* material," Ms. Feldman "re-reviewed all of the boxes" over the course of two days, on July 29 and August 11, 2022, at the Attorney General's Office. She did not locate any other "potential *Brady* information."

• Ms. Feldman had no personal knowledge regarding what parts of the file were made available to other attorneys.

The court subsequently admitted Ms. Feldman's affidavit into evidence as State's Exhibit No. 1.

Ms. Feldman stated that there were "an abundance of issues" that generated "overwhelming cause to question the reliability of [Mr. Syed's] conviction." She stated that there was "new evidence" regarding the location of Hae's car, and one of the alternative suspects "was not properly cleared as a suspect based on the incorrect use of a polygraph examination." Ms. Feldman asserted that the "cell site evidence," i.e., the "cell site records" of incoming calls to Mr. Syed's cell phone on the date of Hae's murder, which was "a critical piece of information at trial," was unreliable. Another consideration regarding the reliability of the investigation conducted in this case was "past misconduct" of Detective Ritz in a prior case "that resulted in an innocent man serving 18 years in prison."

Ms. Feldman expressed concern regarding "the reliability of Jay Wilds," noting that he gave different versions of events in different statements. She stated that it was "extremely difficult . . . to rely on his testimony alone without sufficient corroboration."

She then discussed concerns with the corroborating testimony of Ms. Vinson and Ms. Pusateri.

Based on these issues, the State questioned the reliability of Mr. Syed's convictions. Ms. Feldman noted that "[t]he State's duty, in this case, was to ensure [that] the person or persons responsible for [Hae's] death were brought to justice. The State's defective investigation of [her] murder failed to properly rule out at least two suspects who had motive and opportunity to kill [Hae]." She asserted that the "faulty investigation" of Hae's murder developed evidence against Mr. Syed that was "not reliable," and the motion to vacate "acknowledges [that] justice has been denied to [Hae] and her family by not ensuring [that] the correct assailant was brought to justice." Ms. Feldman then stated in conclusion, as follows:

> I understand how difficult this is but we need to make sure we hold the correct person accountable. Our solemn duty, as prosecutors, is to seek justice over convictions. The [SAO] believes that we are morally and ethically compelled, at this moment, to take affirmative action to rectify the justice that was denied to Mr. Syed.
>
> The State has lost confidence in the integrity of his convictions and believes that it is in the interest of justice and fairness that his convictions be vacated.
>
> It is our promise that we will do everything we can to bring justice to the Lee family. This means continuing to utilize all available resources to bring a suspect or suspects to justice and hold them accountable.

Ms. Suter then addressed the court. After expressing sympathy to Mr. Lee and his family, she stated that Mr. Syed was innocent.

The only evidence admitted at the hearing was Ms. Feldman's affidavit and a letter written by Mr. Syed's original defense counsel, M. Cristina Gutierrez, dated January 6,

2000. This letter requested *Brady* material from the State, stating that, "[d]espite [Mr. Syed's] multiple requests for disclosure of such material, exculpatory or mitigating information within the State's possession continues to come to light as this case proceeds."

Ms. Suter proffered that the documents that the State referred to as *Brady* material "were not in the defense file." She further proffered "that previous post-conviction counsel in this case would also state to the best of his knowledge and recollection, he has never seen these documents." She asked that Mr. Syed's convictions be vacated.

D.

Circuit Court's Ruling on the Motion to Vacate

The court then issued its oral ruling from the bench, finding that, "[u]pon consideration of the papers, in camera review of evidence, proceedings and oral arguments of counsel made upon the record," the State had "proven grounds for vacating the judgment of conviction in the matter of Adnan Syed." The court found that the State had "proven that there was a *Brady* violation." It also found that the State had "discovered new evidence that could not have been discovered by due diligence in time for new trial under Maryland Rule 4-331(c)," and such information "create[d] a substantial and significant probability that the result would have been different."[15]

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[15] We note that, although CP § 8-301.1(f)(2) requires the court to "state the reasons for" its ruling, the court did not explain its reasons for finding a *Brady* violation. *See State v. Grafton*, 255 Md. App. 128, 144 (2022) (*Brady* violation requires proof that: (1) the prosecutor suppressed or withheld evidence; (2) the evidence was favorable to the accused; and (3) the evidence was material). It did not explain how, or if, it found that the evidence was suppressed, despite the lack of affirmative evidence that the information had not been disclosed, and the statement in the motion to vacate that, "[i]f this information was indeed

The court stated that, "in the interests of justice and fairness," it would grant the State's motion to vacate Mr. Syed's convictions for first-degree murder, kidnapping, robbery, and false imprisonment. It ordered that Mr. Syed be released on his own recognizance, subject to home detention with GPS monitoring. It further ordered, consistent with Maryland Rule 4-333(i), that the State "schedule a date for a new trial or enter a [nol] pros of the vacated counts within 30 days of the date of this order."[16]

The court then instructed security to "remove the shackles from Mr. Syed." The court stated its understanding that "the State and all counsel will hold a press conference outside the courthouse this afternoon," and it excused the press from the courtroom and directed those who were not members of the press to remain seated. A person in the courtroom applied an ankle monitor to Mr. Syed and stated that the necessary paperwork would be submitted later. The court then told Mr. Syed that he was free to leave and told "the people on the phone" that the hearing had concluded. That same day, the court issued a written order memorializing its ruling.

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provided to defense," the failure to utilize it would be ineffective assistance of counsel. The court also did not explain how the notes met the *Brady* materiality standard. Additionally, the court found that the State discovered new evidence that created a substantial likelihood of a different result, but it did not identify what evidence was newly discovered or why it created the possibility of a different result.

[16] Maryland Rule 4-333(i) provides, in part: "Within 30 days after the court enters an order vacating a judgment of conviction . . . as to any count, the State's Attorney shall either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

E.

Subsequent Appeal and Entry of a Nolle Prosequi

On September 28, 2022, Mr. Lee filed a notice of appeal, pursuant to CP § 11-103(b), regarding the court's September 19, 2022 order.[17] The next day, September 29, 2022, Mr. Lee filed in the circuit court a motion to stay the proceedings pending appeal, asking the court to rule on the motion by the close of business that day. On Wednesday, October 5, 2022, after no ruling had been issued in the circuit court, Mr. Lee filed in this Court a motion to stay the circuit court proceedings pending appeal. He argued that all proceedings in the circuit court should be stayed pending the resolution of this appeal in order "[t]o preserve this Court's appellate jurisdiction and to avoid irreparable prejudice to Mr. Lee's right to appeal." On Thursday, October 6, 2022, Mr. Syed filed in this Court a notice of intent to respond to the motion to stay.

At 8:55 a.m. on October 11, 2022, prior to the time a response to the motion to stay was due, *see* Md. Rule 8-431(b) (response to motion shall be filed within five days after service of the motion), and eight days before the 30-day deadline to enter a nolle prosequi or take other appropriate action under Rule 4-333(i), the State appeared in court and

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[17] The right to appeal generally is limited to a party. *See* Md. Code Ann., Cts. & Jud. Proc. Art. § 12-301 (2020 Repl. Vol.) ("a party may appeal from a final judgment entered in a civil or criminal case by a circuit court"). CP § 11-103(b), however, provides: "Although not a party to a criminal or juvenile proceeding, a victim of a crime for which the defendant or child respondent is charged may . . . appeal to the [Appellate Court of Maryland] from a final order that denies or fails to consider a right secured to the victim by [various statutes]." *Accord* Md. Rule 8-111(c) ("a victim of a crime" is "not a party to a criminal or juvenile proceeding"). It is undisputed here that Mr. Lee had a right to appeal the court's September 19, 2022 order on the basis that, in granting the State's motion to vacate, the court denied or failed to consider "a right secured to the victim."

indicated that it would be entering a nol pros of Mr. Syed's vacated charges. The court stated that the nol pros was "entered."

On October 12, 2022, this Court, in response to the State's action, denied the motion to stay and ordered Mr. Lee to "show cause in writing, within 15 days from the date of this Order, why this appeal should not be dismissed as moot in light of the *nolle prosequi* filed" the previous day.[18] The parties filed additional written submissions. On November 4, 2022, this Court issued an order that "the provision of this Court's October 12 Order directing the appellant to show cause is deemed satisfied. This appeal shall proceed."[19]

DISCUSSION

In his briefs filed in this Court, Mr. Lee lists multiple concerns about the vacatur proceedings. Initially, he contends that the State and the circuit court violated his rights to "reasonable notice, to appear, and to be heard." He further asserts that the court held "an improper, clandestine, *in camera* prehearing," which neither he nor the public knew occurred. He argues that the on-the-record vacatur hearing was a "farce," where no evidence was produced and there was "a predetermined outcome decided in the closed-chambers prehearing." Mr. Lee challenges the validity of the State's assertion that there was a *Brady* violation, and he asserts that the court did not properly issue findings

[18] That same day, the circuit court denied Mr. Lee's motion to stay the proceedings pending appeal on the ground that the State's nol pros rendered the motion moot.

[19] This Order also denied Mr. Syed's motion to strike the State, represented by the Attorney General's Office, as a party to the appeal.

explaining how there was such a violation. Mr. Lee argues that "the circuit court conducted neither a full nor transparent review of long-since discounted evidence."

We share many of Mr. Lee's concerns about how the proceedings were conducted. The scope of our review in this appeal, however, is limited to whether the court denied Mr. Lee rights to which he was entitled as the victim's representative. Thus, as indicated in our Order that the appeal should proceed, the issues before us are: (1) whether the appeal is moot; (2) if moot, whether we nevertheless should address the merits of the appeal; and (3) did Mr. Lee receive the rights to which he was entitled as a victim's representative.

Mr. Lee contends that this appeal is not moot and that the court violated his constitutional and statutory rights to reasonable notice, to appear, and to be heard. He asserts that the court "erred by endorsing inadequate notice, relying on secret evidence, and entertaining only perfunctory input from Mr. Lee after it had predetermined its holding." Before we address those issues, we set forth a brief discussion of victims' rights and the vacatur statute and corresponding rule.

I.

Victims' Rights

This Court recently noted the "clear public policy" in Maryland "to provide broad rights to crime victims in [the] trial and appellate courts." *Antoine v. State*, 245 Md. App. 521, 539 (2020) (quoting *Lopez v. State*, 458 Md. 164, 175 (2018)). In 1994, the voters of Maryland ratified Article 47 of the Declaration of Rights, which provides:

> (a) A victim of crime shall be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process.

> (b) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime", "criminal justice proceeding", and "victim" are specified by law. –
>
> (c) Nothing in this Article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

Md. Const., Decl. of Rts., art. 47. Article 47 "represents 'the strong public policy that victims should have more rights and should be informed of the proceedings, that they should be treated fairly, and in certain cases, that they should be heard.'" *Hoile v. State*, 404 Md. 591, 605 (2008) (quoting *Lopez-Sanchez v. State*, 388 Md. 214, 229 (2005)), *superseded by statute on other grounds*, 2013 Md. Laws ch. 363, § 1 (codified at CP § 11-103), *as recognized in Antoine*, 245 Md. App. at 541–42.

The General Assembly has passed a number of statutes to implement those rights. For example, CP § 11-1002(b)(1) and (3) set forth guidelines for the treatment of a crime victim or victim's representative, including that they "should be treated with dignity, respect, courtesy, and sensitivity," and that they "should be notified in advance of dates and times of trial court proceedings in the case and . . . of postsentencing proceedings."

We will discuss other statutes, as applicable, *infra*.

II.

Vacatur of Convictions

The General Assembly has provided for various rights for victims depending on the proceeding involved. This appeal involves victims' rights in the context of a proceeding

pursuant to CP § 8-301.1, which became effective on October 1, 2019. *See* 2019 Md. Laws ch. 702.

CP § 8-301.1 provides that a court may vacate a conviction on a State's motion to vacate a judgment of conviction (or a probation before judgment) on either of two grounds: (1) there is "newly discovered evidence" that "could not have been discovered by due diligence in time to move for a new trial under Maryland Rule 4-331(c)," which "creates a substantial or significant probability that the result would have been different"; or (2) after the entry of the conviction or probation before judgment, the prosecutor "received new information" that "calls into question the integrity of the probation before judgment or conviction." CP § 8-301.1(a)(1)(i)–(ii). The State here advised the court that it was proceeding under the second prong.

If the State meets its burden of proof to show either of these grounds, *see* CP § 8-301.1(g), the court must find that "the interest of justice and fairness justifies vacating the probation before judgment or conviction." CP § 8-301.1(a)(2). The court shall hold a hearing if the motion filed satisfies the requirements of the statute, unless "the court finds that the motion fails to assert grounds on which relief may be granted." CP § 8-301.1(e).[20]

With respect to the notice required to be given to the victim regarding such a hearing, and the victim's right to attend, CP § 8-301.1(d) provides, as follows:

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[20] CP § 8-301.1(b) provides that a motion to vacate shall: "(1) be in writing; (2) state in detail the grounds on which the motion is based; (3) where applicable, describe the newly discovered evidence; and (4) contain or be accompanied by a request for a hearing."

> (d)(1) Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article.
>
> (2) A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article.

In ruling on a motion, the court may "vacate the conviction or probation before judgment and discharge the defendant" or deny the motion. CP § 8-301.1(f)(1)(i). The court shall "state the reasons for a ruling . . . on the record." CP § 8-301.1(f)(2).[21]

Maryland Rule 4-333, effective January 1, 2020, implements CP § 8-301.1 and provides further requirements when there is a motion to vacate a conviction. With respect to notice to the victim, Rule 4-333(g)(2) provides:

> Pursuant to Code, Criminal Procedure Article, § 8-301.1(d), the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing.

Rule 4-333(h) addresses the conduct of the hearing. Rule 4-333(h)(1) provides that, if the victim or victim's representative entitled to notice is not present at the hearing, "the

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[21] The legislative history of CP § 8-301.1 indicates that the statute was enacted, at least in part, in response to criminal activity by members of the Baltimore Police Department's Gun Trace Task Force, which potentially affected many convictions in Baltimore City. *See* Md. Gen. Assemb. S. Jud. Proc. Comm., Floor Report, H.B. 874, 2019 Leg., 439th Sess., at 4–5 (2019). The legislative history also reflects an intent to allow the State to move to vacate crimes based on acts that are no longer a crime, such as use or possession of less than 10 grams of marijuana. *See* H.B. 874, Committee Recommendation. This history suggests that the statute was intended to be used when there was no dispute that the convictions should be reversed, although its ultimate language does not include any such limitation.

State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Rule 4-333(h)(3) provides that, after a hearing, "[t]he court shall state its reasons for the ruling on the record." As the parties note, following subsection (h) of Rule 4-333, the following cross-reference appears: "For the right of a victim or victim's representative to address the court during a sentencing or disposition hearing, see Code, Criminal Procedure Article, § 11-403."[22]

Rule 4-333(i) adds an additional requirement in a vacatur proceeding. It provides that, if the court enters an order vacating a judgment of conviction pursuant to CP § 8-301.1, the State's Attorney, within 30 days of the entry of the order, "shall either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

III.

Mootness

Before we address Mr. Lee's contention that his rights as a victim's representative were violated, we must address whether his appeal is properly before us. Mr. Syed contends that it is not, asserting that the State's entry of a nol pros after Mr. Lee filed his appeal rendered the appeal moot, and therefore, we should dismiss the appeal.

"Generally, a case is moot if no controversy exists between the parties or 'when the court can no longer fashion an effective remedy.'" *D.L. v. Sheppard Pratt Health Sys.,*

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[22] CP § 11-403(b) provides that, in a sentencing or disposition hearing, which includes the alteration of a sentence, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition." In CP § 11-403(a), "disposition" is referred to in connection with a "juvenile court proceeding."

Inc., 465 Md. 339, 351–52 (2019) (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006)). "It is well settled that '[a]ppellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course.'" *Cottman v. State*, 395 Md. 729, 744 (2006) (quoting *State v. Ficker*, 266 Md. 500, 506–07 (1972)). "The test of mootness is whether, when it is before the court, a case presents a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy." *Adkins v. State*, 324 Md. 641, 646 (1991). "In other words, 'mootness prevents review of an issue only when the court can no longer fashion an effective remedy.'" *Tallant v. State*, 254 Md. App. 665, 682–83 (2022) (quoting *Hawkes v. State*, 433 Md. 105, 130 (2013)) (cleaned up). *Accord Md. Tobacco Growers' Ass'n v. Md. Tobacco Auth.*, 267 Md. 20, 25–26 (1972) ("[W]hen the chronology of a case makes it apparent that nothing [the court] could do could undo or remedy that which has already occurred," then "the case must be dismissed as moot.").

Mr. Lee contends that the State's entry of a nol pros did not make this appeal moot. He asserts that this Court can provide him with "an effective, tangible form of relief," namely, "a redo of the vacatur hearing with the proper procedures and safeguards." He argues that the entry of the nolle prosequi did "not moot the right to a compliant hearing because the State had no authority to [nol pros] but for the deficient vacatur hearing," and "once this Court took jurisdiction of this appeal, any actions that would interfere with appellate adjudication were invalid."

The State similarly contends that this appeal is not moot. It argues that a valid vacatur hearing was a prerequisite to the ability to enter a nolle prosequi, and because it was entered "in the wake of the defective vacatur hearing," the nol pros was a legal nullity.

Mr. Syed contends that this appeal is moot "[b]ecause the underlying case was ended by the entry of a nolle prosequi subsequent to the filing of the notice of appeal," and "following the State's dismissal of the charges against [him]," this Court can provide Mr. Lee with "no effective relief." He argues that "[i]t is uncontroverted that the State acted lawfully in entering the nolle prosequi," and because Mr. Lee cannot challenge that action on appeal, the dismissal of the charges is not subject to appellate review.

It is this latter contention that is critical to the mootness issue, i.e., whether the State "acted lawfully in entering the nolle prosequi." To assess whether the entry of the nol pros here rendered this appeal moot, we consider the nature and effect of a nol pros, both generally and in this case.

A nolle prosequi is "an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *State v. Huntley*, 411 Md. 288, 291 n.4 (2009) (citing *Ward v. State*, 290 Md. 76, 83 (1981)). *Accord* CP § 1-101(k) (defining "nolle prosequi" as "a formal entry on the record by the State that declares the State's intention not to prosecute a charge"). Maryland Rule 4-247(a) provides that "[t]he State's Attorney may terminate a prosecution on a charge and dismiss the charge by entering a nolle prosequi on the record in open court."

The entry of a nolle prosequi eliminates the charge, leaving the defendant in the position he would have been in if he had never been charged and convicted. *See Blackston*

v. State, 93 Md. App. 567, 570 (1992) (When the State entered a nolle prosequi of charges, "it was as if the charges had never existed."), *cert. denied*, 329 Md. 336 (1993). *Accord Curley v. State*, 299 Md. 449, 460 (1984) ("Normally the effect of a nol pros is as if the charge had never been brought in the first place."). Upon entry of a nol pros, "the matter is 'terminated' at that time; and the accused may be proceeded against for the same offense only under a new or different charging document or count." *State v. Moulden*, 292 Md. 666, 673 (1982) (quoting *Barrett v. State*, 155 Md. 636, 637–38 (1928)). *Accord In re Darren M.*, 358 Md. 104, 112 (2000) (nol pros "is not an acquittal or pardon from the underlying conduct that served as the basis of the original charges").[23]

As indicated, Mr. Syed contends that, based on the entry of a nol pros on October 11, 2022, the case was ended, there is nothing for this Court to review, and this case is moot. Under typical circumstances, Mr. Syed would be correct, and the State's entry of a nol pros of the charges would end the case against the defendant and render an appeal of prior court proceedings on those charges moot. *See Mitchell v. State*, 369 P.3d 299, 307 (Idaho 2016) (when charges were dismissed, the appeal by the victim asserting that his rights were violated was moot); *S.K. v. State*, 881 So. 2d 1209, 1212 n.6 (Fla. Dist. Ct. App. 2004) (when nol pros was entered, appeal by victim's representatives alleging that their rights were violated was moot).

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[23] If the nol pros is entered after trial has begun, however, jeopardy attaches, and a subsequent prosecution on the same offense would violate principles of double jeopardy. *See Ward*, 290 Md. at 97. *Accord Boone v. State*, 3 Md. App. 11, 25–26 ("If entered without the consent of the defendant after trial has begun, jeopardy attaches because it operates as an acquittal."), *cert. denied*, 393 U.S. 872 (1968).

In this case, however, Mr. Lee contends that the nol pros was invalid and a nullity, and therefore, it did not render his appeal moot. For the reasons set forth below, we agree that, under the unique circumstances of this case, the nol pros was void, and therefore, it was a nullity.

As a general rule, the State's Attorney has broad discretion, free from judicial control, to enter a nolle prosequi. *State v. Simms*, 456 Md. 551, 561 (2017); *Ward*, 290 Md. at 83. This authority, however, is not unfettered. The Supreme Court of Maryland has made clear that there are exceptions and boundaries to the State's discretion. *Simms*, 456 Md. at 562. *Accord Hook v. State*, 315 Md. 25, 35–36 (1989) (The State's power to nol pros charges is "not absolute" or "without restraint."); *Ward*, 290 Md. at 83 n.6 ("There is authority . . . suggesting that the court may or may not permit the entry of the nolle prosequi in order to prevent injustice.").

The Supreme Court, in several circumstances, has limited the State's power to enter a nol pros to prevent injustice. In *Curley*, 299 Md. at 462, the Supreme Court held that, where the State enters a nol pros that has the purpose or necessary effect of circumventing the defendant's right to a trial within the 180-day time limit ("the *Hicks* rule"),[24] that nol pros is treated as a nullity for purposes of the *Hicks* rule, and if the State files new charges, the 180-day period for trial is calculated based upon the initial prosecution, rather than beginning with the second prosecution. *Accord Huntley*, 411 Md. at 293 (when circumvention of the *Hicks* rule is "(1) the purpose of the State's nol pros, or (2) the

[24] *State v. Hicks*, 285 Md. 310 (1979).

necessary effect of its entry," the 180-day period for trial "begins with the triggering event under the initial prosecution").

Another limit to the State's authority to enter a nol pros is in the situation where "entry of a nol pros undermines a fair trial." *Simms*, 456 Md. at 562. The concept of fundamental fairness "requires that the entry of a nol pros conform[] to 'the rudimentary demands of fair procedure' and cannot violate 'the civilized standards for [a] fair and impartial trial.'" *Id.* (quoting *Hook*, 315 Md. at 41–42).

In *Hook*, 315 Md. at 32–33, the defendant was on trial for first-degree and second-degree murder. Hook confessed that he shot the victims, but he presented an intoxication defense, which, if accepted, would have downgraded the first-degree murder charge to second-degree murder. *Id.* at 29, 38, 41–42. At the close of its case, the State, over Hook's objection, entered a nolle prosequi on the second-degree murder count. *Id.* at 37. The Supreme Court reversed Hook's conviction, stating:

> When the defendant is plainly guilty of some offense, and the evidence is legally sufficient for the trier of fact to convict him of either the greater offense or a lesser included offense, it is fundamentally unfair under Maryland common law for the State, over the defendant's objection, to nol pros the lesser included offense. . . . In short, it is simply offensive to fundamental fairness, in such circumstances, to deprive the trier of fact, over the defendant's objection, of the third option of convicting the defendant of a lesser included offense.

Id. at 43–44. The Court held that the "exceptional circumstances" in that case "present[ed] a rare occasion calling for a tempering of the broad authority vested in a State's Attorney to terminate a prosecution by a nolle prosequi" because the State's use of the nol pros was "inconsistent with the rudimentary demands of fair procedure." *Id.* at 41–42.

In *Simms*, 456 Md. at 575–76, the Court addressed another limit to the State's authority to nol pros charges. In that case, the defendant appealed his convictions, arguing that the evidence was insufficient to support the convictions. *Id.* at 569. While the appeal was pending, the State entered a nolle prosequi of the charges. *Id.* at 555. As in this case, the State argued that Mr. Simms' appeal was then moot. *Id.* The Supreme Court addressed the appeal on its merits, holding that the State did not have the authority to enter a nol pros, and it was "simply a nullity, 'improper' and therefore 'ineffective.'" *Id.* at 576 (quoting *Friend v. State*, 175 Md. 352, 356 (1938)).

The primary basis for the Court's decision in *Simms* was that "the State does not have the authority to enter a nol pros after a final judgment has been entered against a defendant in a criminal case." *Id.* at 575. That rationale does not apply in this case. Once the circuit court vacated Mr. Syed's convictions, the ruling, although a final judgment, left Mr. Syed with no final judgment of conviction.

The *Simms* Court, however, went on to discuss another reason that the State did not have authority in that case to enter a nol pros. The Court stated: "Once a case reaches final judgment in a proceeding, and a party appeals that judgment, the issue 'comes within the exclusive jurisdiction of the appellate court.'" *Id.* at 576 (quoting *Irvin v. State*, 276 Md. 168, 172–73 (1975)). The Court held that the State lacked the authority to nol pros "to alter the final judgment *or* to eliminate the appellate process initiated by Mr. Simms." *Id.* at 578 (emphasis added). "Because Mr. Simms appealed his conviction and sentence, the trial court had no jurisdiction to alter the conviction or sentence by relying on the State's nol pros authority." *Id.* at 576. The Court held that the State could not attempt "an end run

around the appellate process" by seeking to erase a conviction and sentence, and therefore, "the nol pros entered in the trial court as to the charge underlying the conviction and sentence was simply a nullity, 'improper' and therefore 'ineffective.'" *Id.* (quoting *Friend*, 175 Md. at 356).[25]

These cases stand for the proposition that the State does not have unlimited authority to nol pros a case. Rather, the courts will temper the State's authority in exceptional circumstances, such as where it violates fundamental fairness, and in at least some circumstances, it circumvents the right to appeal.

Although *Simms*, 456 Md. at 576, discussed the impropriety of the State attempting "an end run around the appellate process" by entering a nol pros after an appeal was filed, that case involved an appeal from a judgment of conviction, which this case does not. Other jurisdictions, however, have held that, even in a situation not involving a final judgment of conviction, the prosecution cannot enter a nol pros while an appeal is pending, and a nol pros entered in that circumstance is invalid.

In *Sanders v. State*, 869 S.E.2d 411, 415 (Ga. 2022), the defendant was indicted for murder and other offenses. The trial court denied her motion to dismiss the indictment, and she appealed. *Id.* at 416. While the case was pending on appeal, the State reindicted

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[25] The Supreme Court noted in *State v. Simms*, 456 Md. 551, 568 (2017), that, in *Hooper v. State*, 293 Md. 162 (1982), it previously addressed a situation where the State nol prossed the case while it was on appeal from the dismissal of indictments against the defendants based on its filing of new charges. The State then sought to withdraw its entry of a nol pros, but the Court held that the State did not have such authority. *Hooper*, 293 Md. at 171. The *Simms* Court stated that *Hooper* was inapposite because the procedural posture of that case was different, and the sole issue on appeal was the authority of the State to withdraw the entry of a nol pros. *Simms*, 456 Md. at 568–69.

Sanders, and the court then granted the State's motion to nol pros the indictment pending appeal. *Id.* The Supreme Court of Georgia rejected the argument that the entry of the nol pros mooted Sanders' appeal. *Id.* at 417. It held that the nol pros "was a nullity" because "[a] notice of appeal generally divests the trial court of jurisdiction to alter the judgment or order that is being appealed," and in that case, "Sanders' notice of appeal deprived the trial court of the authority to enter an order of nolle prosequi" on the indictment "while th[e] appeal was pending." *Id.* at 416–17.

In *Commonwealth v. Hudson*, 92 A.3d 1235, 1237 (Pa. Super.), *appeal denied*, 106 A.3d 724 (Pa. 2014), the Commonwealth appealed from an order granting Hudson's pretrial motion to suppress. After the appeal was filed, the Commonwealth requested the entry of "a voluntary nolle prosequi *with prejudice*" on Hudson's charges, which the court granted. *Id.* The Superior Court of Pennsylvania declined to quash the Commonwealth's appeal, noting that the nol pros was entered "*after* the appeal was filed." *Id.* at 1240 (emphasis in original). Because the trial court lacked the "authority to proceed any further due to the pending appeal," the "filing of the nolle prosequi and the subsequent order [entering the nol pros] were nullities." *Id.* at 1241.

At first glance, *Sanders* and *Hudson* support Mr. Lee's argument that the State's nol pros, entered after the appeal was noted, was a nullity. In Maryland, however, unlike the above cases, trial courts "are not stripped of their jurisdiction to take post-judgment action simply because an appeal is pending from that judgment." *Cottman v. State*, 395 Md. 729, 740 (2006). "[A]bsent a stay required by law, or one obtained from an appellate court,"

the trial court "has the authority to exercise the 'fundamental jurisdiction' which it possesses." *Id.* at 740–41 (quoting *State v. Peterson*, 315 Md. 73, 81 (1989)).

The court may not, however, exercise that discretion "in a manner that affects either the subject matter of the appeal or the appellate proceeding itself—that, in effect, precludes or hampers the appellate court from acting on the matter before it." *Jackson v. State*, 358 Md. 612, 620 (2000). *Accord Peterson*, 315 Md. at 82 n.3 ("a trial court ordinarily should not proceed with a hearing in the circumstances here, thereby mooting an issue before an appellate court"). If a trial court does interfere with the proceedings on appeal, however, it "'may be subject to reversal on appeal, but it is not void *ab initio* for lack of jurisdiction to enter it.'" *Cottman*, 395 Md. at 742 (quoting *Jackson*, 358 Md. at 620).

In *Cottman*, 395 Md. at 736–37, after the defendant was convicted and his appeal was pending, the circuit court granted him a new trial. The Supreme Court determined that this action did not interfere with the subject matter of the appeal, but even if it did, it was not void. *Id.* at 741–42. The grant of the new trial eliminated the judgment of conviction, there was no longer a judgment for the Appellate Court to review, and the appeal was moot. *Id.* at 743.[26]

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[26] Although the Supreme Court's opinion in *Simms*, 456 Md. at 576, expressed concern about the fairness of the entry of a nol pros while an appeal was pending, holding that the nol pros in that case was a nullity when it was entered while an appeal was pending from a final judgment of conviction, the Court recently stated that it did not read *Simms* "as a retreat from those cases that have discussed a circuit court's continuing fundamental jurisdiction during the pendency of an appeal." *State v. Thomas*, 465 Md. 288, 300 n.9 (2019).

Thus, in the ordinary case, the noting of an appeal would not deprive the State from entering a nolle prosequi. This, however, is not an ordinary case.

As indicated, the circuit court granted the motion to vacate on September 19, 2022. Based on Rule 4-333(i), the State had 30 days, i.e., until October 19, 2022, to "either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count." On September 28, 2022, Mr. Lee filed a notice of appeal.

Mr. Lee appeared to anticipate the possibility that the State would enter a nolle prosequi of the vacated charges prior to having his appeal heard by this Court. The day after he filed his appeal, Mr. Lee filed, in the circuit court, a motion to stay further proceedings "to avoid irreparable prejudice to . . . [his] right to appeal." On the following Wednesday afternoon, October 5, 2022, after no ruling had been issued in that court, Mr. Lee filed a motion to stay in this Court.[27] On Thursday, October 6, 2022, Mr. Syed filed in this Court a notice of intent to respond to the motion to stay, which would be due on Thursday, October 13, 2022.[28] At 8:55 a.m. on Tuesday, October 11, 2022, the State entered a nol pros of Mr. Syed's vacated charges. The court stated that the nol pros was "entered."

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[27] As indicated, the circuit court had not ruled on Mr. Lee's motion to stay at that point, and it did not do so until after the State entered a nol pros of the charges, at which time it denied the motion, stating that the State's nol pros rendered the motion moot.

[28] The motion to stay was filed on October 5, 2022, and a copy of the motion was served on the parties that same day. Thus, because October 10, 2022, was a court holiday, a response to the motion was due by Thursday, October 13, 2022. *See* Md. Rule 8-431(b); Md. Rule 1-203(a).

The timing of the entry of the nol pros is important. It was entered soon after the filing of the motion to stay in this Court, on the morning of the third business day after Mr. Lee filed the motion. At that point, there were only two days before the response to the motion to stay was due, after which this Court potentially could have granted the motion to stay. The nol pros was filed with eight days still remaining before the 30-day time period provided by Rule 4-333(i) required the State to "either enter a *nolle prosequi* of the vacated count or take other appropriate action as to that count."

Under these circumstances, we conclude that the nol pros was entered with the purpose or "necessary effect" of preventing Mr. Lee from obtaining a ruling on appeal regarding whether his rights as a victim's representative were violated. *See Curley*, 299 Md. at 462; *Simms*, 456 Md. at 576. This action conflicted with "the State's interest in procuring justice," which requires it "to ensure that the constitutional rights of crime victims are honored and protected." *State v. Casey*, 44 P.3d 756, 764 (Utah 2022). By entering a nol pros while a motion to stay was pending, and while the State still had more than a week before Rule 4-333(i) required action, the State violated the requirement that the entry of a nol pros conform to "the rudimentary demands of fair procedure," *see Hook*, 315 Md. at 42, and it resulted in an injustice to Mr. Lee. Allowing a nol pros in this circumstance gives the State a mechanism to insulate a defective proceeding from appellate review, and it prevents victims from receiving the rights to which they are entitled.

To be sure, as Mr. Syed points out, the prior circumstances tempering the authority of the State's Attorney to nol pros have involved injustice to the defendant, and the injustice here is not to the defendant, but to Mr. Lee, the victim's representative. Nevertheless, the

State of Maryland has given constitutional and statutory rights to crime victims, and the State's Attorney should not be allowed to thwart those rights in the way that happened in this case. The nol pros entered under the circumstances of this case violated Mr. Lee's right to be treated with dignity and respect. *See* Md. Const., Decl. of Rts., art. 47(a); CP § 11-1002(b)(1).

Under the unique facts and circumstances of this case, where the State entered a nol pros two days before the response to the motion to stay was due, the deadline for the State to "either enter a *nolle prosequi* of the vacated count or take other appropriate action," Md. Rule 4-333(i), was eight days away, and permitting the entry of the nol pros would result in injustice to the victim, we conclude that exceptional circumstances exist to temper the authority of the State to enter a nol pros. Accordingly, we hold that the nol pros was void, and the circuit court erred in accepting the nol pros at the court proceeding on October 11, 2022.[29]

Because the nol pros was void, it was a nullity, and it does not render this appeal moot. Accordingly, we proceed to address the merits of the appeal, i.e., Mr. Lee's claims that his rights to notice, to attend, and to be heard were violated.

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[29] We recognize that Article 47(c) of the Maryland Declaration of Rights states: "Nothing in this Article . . . authorizes a victim of crime to take any action to stay a criminal justice proceeding." It is not clear, however, that a prosecutor's action in entering a nol pros is a "criminal justice proceeding." *See Barnett v. Antonacci*, 122 So. 3d 400, 404–06 (Fla. Dist. Ct. App. 2013) (a decision to nol pros a case is not a stage of a criminal proceeding within the constitutional provision relating to rights of crime victims), *rev. denied*, 139 So. 3d 884 (Fla. 2014). By entering a nol pros before the response to the motion to stay was filed and this Court made a ruling on the motion, the State prevented this Court from deciding whether a stay could be granted to prevent the nol pros.

IV.

Right to Notice

Mr. Lee contends that the State violated his right to notice in several ways. First, he argues that the State was "woefully deficient in notifying [him] before moving to vacate," asserting that, although vacatur had been "in the works for nearly a year," the State first notified him of its motion to vacate on September 12, 2022, two days before filing the motion on September 14, 2022. Even then, it "disclosed no relevant details and did not tell Mr. Lee that there would be a hearing." Second, he contends that he was "excluded from the *ex parte* proceeding held on Friday, September 16," and he did not even know about it until the vacatur hearing. Third, he argues that the State notified him on Friday, September 16, 2022, that there would be an "in-person hearing" on Monday, September 19, 2022, advising that he could watch via Zoom, but not advising that he had a right to participate. He argues that this did not constitute reasonable notice, and "he could not travel cross-country on such short notice."

The State agrees that Mr. Lee did not receive sufficient notice of the Monday, September 19, 2022, vacatur hearing, "which led to the denial of his right to attend the hearing in person, as contemplated by law," and "unfairly compromised his ability to be heard on the impact of the vacatur decision on him and the rest of the victim's family." It asserts that "Friday notice of a Monday hearing to a victim representative known to be in California was not reasonably calculated to afford [Mr.] Lee his right to attend the vacatur hearing in person."

Mr. Syed contends that "the State's victim notification complied with the applicable constitutional provisions, statutes, and rules." He argues that, although it was not required to do so, the State advised Mr. Lee of its intent to file the vacatur motion, emailed a draft of the motion, and advised that there would be a hearing. It notified Mr. Lee as soon as practicable after a hearing was scheduled, as required by the statute and rule. Mr. Syed asserts that the State complied with the notice requirement "by calling, emailing, and texting [Mr. Lee] to notify him of the hearing, the date, time, and location, and facilitating his attendance by providing a Zoom link."

As indicated, CP § 8-301.1(d)(1) addresses victims' rights to notice in vacatur proceedings, as follows: "Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article." CP § 11-104(f)(1) provides:

> (f)(1) Unless provided by the MDEC system, the prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the case, of the terms of any plea agreement, and of the right of the victim or victim's representative to submit a victim impact statement to the court under § 11-402 of this title if:
>
> (i) prior notice is practicable; and
>
> (ii) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section.

CP § 11-503(b) provides that, after conviction and sentencing, "the State's Attorney shall notify the victim or victim's representative of a subsequent proceeding in accordance with § 11-104(f) of this title" if the victim or victim's representative submits a notification request form. A "subsequent proceeding" includes, among other things, "a hearing on a

request to have a sentence modified or vacated under the Maryland Rules" and "any other postsentencing court proceeding." CP § 11-503(a)(2), (7).[30]

Maryland Rule 4-333 further provides:

> Pursuant to Code, Criminal Procedure Article, § 8-301.1(d), the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing.

Md. Rule 4-333(g)(2). If "a victim or victim's representative" is "entitled to notice" pursuant to Rule 4-333(g) and "is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1).

With that background, we will address Mr. Lee's three claims of inadequate notice in this case.

A.

Filing of Motion to Vacate

Mr. Lee first contends that the State was "woefully deficient" in notifying him that it would be filing a motion to vacate. He cites no authority, however, that supports the proposition that the State is required to give notice of motions that it is filing. Although it

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[30] As discussed in more detail, *infra*, CP § 8-301.1(d)(2) provides: "A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article." CP § 11-102(a) provides: "If practicable, a victim or victim's representative who has filed a notification request form under § 11-104 of this subtitle has the right to attend any proceeding in which the right to appear has been granted to a defendant."

may have been good practice to have given more notice in that regard, the statutes require notice only of court proceedings, not the filing of a motion.

B.

Chambers Discussion

Mr. Lee's next claim is that the State did not give him notice of the Friday, September 16, 2022, chambers discussion. He argues that this hearing violated the First Amendment to the United States Constitution and the "law that court hearings be open to the public." As we have noted, however, the issues in this appeal are limited to whether Mr. Lee's rights as a victim's representative were violated. In that context, he cites no authority in support of the proposition that the State was required to give him notice of this event.

This Court has not addressed whether a victim or victim's representative has a right to notice prior to an off-the-record chambers conference. In *Brown v. State*, 272 Md. 450, 479–80 (1974), however, the Supreme Court held that a defendant does not have the right to attend such a conference. The Court explained:

> We are fully cognizant of the necessity of conferences between the court and counsel—either before or during a trial—for the purpose of discussing scheduling, other collateral matters of procedure, to hear arguments of law on evidentiary rulings, to confer on proposed instructions to the jury, and the like. . . . [S]uch conferences have not been held to be a part of the trial. To require that all such conferences be conducted in open court, or that the defendant be present in chambers, or at a bench conference, on each occasion would create administrative burdens, diminish the decorum of the proceedings, and in many instances involve security risks—none of which can be balanced by any gain from the defendant's presence.

In *State v. Damato-Kushel*, 173 A.3d 357, 366 (Conn. 2017), the Supreme Court of Connecticut held that a victim did not have the right to attend an off-the-record, in chambers conference pursuant to a constitutional right to attend "court proceedings the accused has the right to attend." Noting that the conference in that case was "conducted informally and off the record," the court stated that it was hesitant to call such a conference a "court proceeding." *Id.* It ultimately concluded "that the victim has no right to attend off-the-record, in-chambers disposition conferences because the defendant herself has no right to do so." *Id.*

Although these cases involve the right to attend, a similar analysis would apply to notice because the notice requirements facilitate the right to attend. In Maryland, constitutional and statutory provisions address the victim's right to notice in the following contexts: a "criminal justice proceeding, as those rights are implemented," Md. Const., Decl. of Rts., art. 47(b); a hearing on a motion pursuant to CP § 8-301.1; each "court proceeding in the case," if prior notice is practicable, CP § 11-104(f)(1); "trial court proceedings" and "postsentencing proceedings," CP § 11-1002(b)(3); and a hearing on a request to have a sentence modified or vacated, CP § 11-503(a)(2),(7). We construe those provisions to refer to a formal, on-the-record court proceeding. We hold that a victim's rights to notice, and to attend, court proceedings do not apply to off-the-record, in-chambers conferences. We note, however, that, if there is an in-chambers conference, the judge should put on the record what was discussed in chambers. *See Poole v. State*, 77 Md. App. 105, 120 (1988) (at the conclusion of a chambers conference, the court should

announce on the record, "at a very minimum," what was agreed to during the discussion), *aff'd*, 321 Md. 482 (1991).

C.

Vacatur Hearing

With respect to the Monday, September 19, 2022, on-the-record hearing on the motion to vacate, there is no dispute that the State was required to give Mr. Lee notice of this hearing pursuant to CP § 8-301.1(d)(1). Although the record does not contain a victim notification request form, and at oral argument, counsel for Mr. Lee stated that he had not been able to ascertain whether such a form had been filed, this Court made clear in *Antoine*, 245 Md. App. at 545–46, that a failure to file the statutory notification request form was "no barrier" to asserting a violation of a victim's rights if the parties and the court were aware of the victim's interest in being heard. That clearly was the case here, and Mr. Syed does not argue that any failure to file a victim notification request form precludes review of Mr. Lee's claims on appeal.

There also is no dispute that the prosecutor gave Mr. Lee notice of the hearing. The question here is whether the State's notice to Mr. Lee was sufficient under the statute and Rule 4-333. This presents a question of law, which we review *de novo*. *See Wheeling v. Selene Fin. LP*, 473 Md. 356, 373 (2021) ("Where questions of law and statutory interpretation are presented, this Court reviews them *de novo*, without deference to . . . the circuit court's . . . analysis."); *Otto v. State*, 459 Md. 423, 446 (2018) ("Interpretation of the Maryland Rules presents a question of law, reviewed *de novo* to ascertain whether the trial court was legally correct in its rulings."); *Bray v. Aberdeen Police Dep't*, 190 Md.

App. 414, 437 ("Whether the notice provided to appellant was sufficient was purely a question of law."), *cert. denied*, 415 Md. 39 (2010).

The record reflects that the prosecutor, Ms. Feldman, sent an email to Mr. Lee on Friday afternoon, September 16, 2022, right after the chambers hearing, which the parties represent is when the Monday, September 19 hearing date was set. As indicated, notice clearly was given. The question is whether that notice complied with the intent of the statute and the Rule.

Although the parties focus on the actions of the prosecutor, our review as an appellate court is on the rulings and actions of the trial court. *Walls v. State*, 228 Md. App. 646, 668 (2016) ("Our function is not to review conduct of counsel, the parties, or witnesses for error. We focus on the rulings of the court, some of which may be made in response to conduct of the lawyers, parties, or witnesses."). Thus, the question we address is not whether the prosecutor acted as soon as possible in providing notice, but whether the circuit court erred in determining that the notice requirement had been satisfied before proceeding with the hearing. We conclude that the court erred in making that finding here.

CP § 11-103(e) "makes courts responsible for ensuring that victims' rights are honored, and authorizes them to fashion appropriate remedies if not." *Antoine*, 245 Md. App. at 533. Amendments to this statute enacted in 2013, *see* 2013 Md. Laws ch. 363, expanded the ability of courts to give relief to victims deprived of their rights. The statute provides, in part, as follows:

> (e)(1) In any court proceeding involving a crime against a victim, the court shall ensure that the victim is in fact afforded the rights provided to victims by law.

> (2) If a court finds that a victim's right was not considered or was denied, the court may grant the victim relief provided the remedy does not violate the constitutional right of a defendant or child respondent to be free from double jeopardy.
>
> (3) A court may not provide a remedy that modifies a sentence of incarceration of a defendant or a commitment of a child respondent unless the victim requests relief from a violation of the victim's right within 30 days of the alleged violation.

CP § 11-103(e)(1)–(3).

Rule 4-333(h)(1) also indicates that the court must ensure that victims' rights are honored. It provides that, "[i]f the defendant or a victim or victim's representative entitled to notice under section (g) of this Rule is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1). Thus, the Rule envisions that, when the victim or victim's representative is not present, the State must advise of its efforts to notify the victim, and the court determines whether the notice requirements have been satisfied.

Here, when Mr. Lee was not present for the hearing, the court asked the State about its efforts to notify the victim. The prosecutor advised that, on Friday, September 16, 2022, the State emailed Mr. Lee with the time and date of the hearing on Monday, one business day later. The email stated that the hearing would be in person, but Mr. Lee and his family could watch via Zoom. Mr. Lee did not respond to that email, so the State reached out again on Sunday, September 18, 2022, and Mr. Lee indicated that he would watch the proceeding on Zoom.

Counsel for Mr. Lee advised the court at the beginning of the hearing that Mr. Lee wanted to be there in person, and counsel requested a postponement of seven days so that Mr. Lee could arrange to take leave from work and fly from California to be present in the courtroom, in the same way that the court and the parties were present. The court denied the requested postponement and proceeded without Mr. Lee in the courtroom. He was permitted to give a statement on Zoom, with only 30 minutes allowed for him to go home from work to get on Zoom and prepare what he wanted to say.

In determining whether the court erred in finding that the notice given was sufficient under CP § 8-301.1(d) and Rule 4-333, we must interpret the word "notice." In construing the statute, we note well-settled rules of statutory construction:

> The cardinal rule of statutory interpretation is to ascertain and effectuate the real and actual intent of the Legislature. A court's primary goal in interpreting statutory language is to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by the statutory provision under scrutiny.
>
> To ascertain the intent of the General Assembly, we begin with the normal, plain meaning of the statute. If the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to the legislative intent ends ordinarily and we apply the statute as written without resort to other rules of construction. We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with "forced or subtle interpretations" that limit or extend its application.
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> We, however, do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute's plain language to the isolated section alone. Rather, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute. We presume that the Legislature intends its enactments to operate together as a consistent and harmonious body of law, and, thus, we seek to reconcile and harmonize the parts of a statute, to the extent possible consistent with the statute's object and scope.

> Where the words of a statute are ambiguous and subject to more than one reasonable interpretation, or where the words are clear and unambiguous when viewed in isolation, but become ambiguous when read as part of a larger statutory scheme, a court must resolve the ambiguity by searching for legislative intent in other indicia, including the history of the legislation or other relevant sources intrinsic and extrinsic to the legislative process. In resolving ambiguities, a court considers the structure of the statute, how it relates to other laws, its general purpose and relative rationality and legal effect of various competing constructions.
>
> In every case, the statute must be given a reasonable interpretation, not one that is absurd, illogical or incompatible with common sense.

State v. Bey, 452 Md. 255, 265–66 (2017). Similarly, "'[t]o interpret rules of procedure, we use the same canons and principles of construction used to interpret statutes.'" *Hoile*, 404 Md. at 608 (quoting *State ex rel. Lennon v. Strazzella*, 331 Md. 270, 274 (1993)).

Here, the circuit court stated that CP § 8-301.1 provides that "notice" must be given, not "reasonable notice." It is true that Maryland's statute, unlike other jurisdictions' victims' rights provisions, provides only for notice, *not* reasonable notice. *Compare* CP § 8-301.1(d)(1) ("[b]efore a hearing on a motion filed under this section, the victim or victim's representative shall be notified"), *with* 18 U.S.C. § 3771(a)(2) (granting crime victims "[t]he right to reasonable, accurate, and timely notice of any public court proceeding . . . involving the crime"), Cal Const. art. I, § 28(b)(7) (granting crime victims the right "[t]o reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present"), N.C. Gen. Stat. § 15A-830.5(b)(1) (granting crime victims "[t]he right, upon request, to reasonable, accurate, and timely notice of court proceedings of the accused"), *and* Neb. Rev. Stat. § 81-1848(1)(b) (granting crime victims the right "[t]o receive from

the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule").

Nevertheless, in determining the intended scope of the term "notice," which is not defined, we apply "'the language's natural and ordinary meaning, by considering the express and implied purpose of the statute, and by employing basic principles of common sense, the meaning these words intended to convey.'" *75-80 Properties, L.L.C. v. Rale, Inc.*, 470 Md. 598, 645 (2020) (quoting *Goff v. State*, 387 Md. 327, 344 (2005)). Thus, we must construe CP § 8-301.1(d) and Rule 4-333 in light of the constitutional and statutory mandate that crime victims "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process," Md. Const., Decl. of Rts., art. 47(a), CP § 11-1002(b)(1), as well as the legislative intent that a victim has the right to notice and to attend the vacatur hearing. Clearly, notice to a victim in California that there would be a hearing in Baltimore a minute later would not be sufficient to comply with the statutory objectives, a point which Mr. Syed's counsel conceded, appropriately, at oral argument. Similarly, the State's notice here, an email one business day before the hearing on Monday, September 19, 2022, was not sufficient to reasonably allow Mr. Lee, who lived

in California, to attend the proceedings, as was his right.[31] The court erred in finding that Mr. Lee received sufficient notice pursuant to CP § 8-301.1(d) and Rule 4-333.[32]

The dissent's conclusion that the notice given was sufficient is based on the conclusion that the notice was sufficient to allow Mr. Lee to appear at the vacatur hearing by Zoom, which was sufficient to satisfy Mr. Lee's right to attend the hearing. As discussed below, we disagree that requiring Mr. Lee to attend the hearing remotely, when he wanted to attend in person, satisfied Mr. Lee's right to attend the hearing.

V.

Right to Attend

As indicated, CP § 8-301.1(d)(2) addresses victims' rights to attend vacatur proceedings as follows: "A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article." CP § 11-102(a) provides: "If practicable, a victim or victim's representative who has filed a notification request form under § 11-104 of this subtitle has the right to attend any proceeding in which the right to appear has been granted to a defendant."

Based on these statutes, Mr. Syed agrees that Mr. Lee had the right to attend the Monday vacatur hearing. Mr. Syed asserts, however, that Mr. Lee's right to attend was

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[31] Ms. Feldman emailed Mr. Lee on Friday, September 16, 2022, but we do not know when he received the email. The record reflects only that he knew by Sunday afternoon, when he texted Ms. Feldman.

[32] The General Assembly may want to revisit the notice provisions in CP § 8-301.1, and other victims' rights statutes, to expressly provide that reasonable notice is required, to prevent what happened here from happening in other cases.

satisfied because Mr. Lee attended the hearing "via Zoom," and "attendance at hearings via Zoom is commonplace since the COVID pandemic."

Mr. Lee and the State argue that Mr. Lee's right to attend the vacatur hearing was not satisfied here. They argue that the vacatur statute envisions attendance in person, as opposed to Zoom, asserting: "Even after the experience of the COVID-19 pandemic, remote hearings are the exception, not the rule. And it was against the backdrop of open, in-court hearings that the General Assembly enacted the vacatur statute." As explained below, we agree that Mr. Lee's right to attend the vacatur hearing was violated.

To be sure, since the COVID-19 pandemic, we have all learned to adapt to Zoom and other virtual platforms, and we have conducted proceedings by Zoom, as necessary and desired. *See Tallant v. State*, 254 Md. App. 665, 688 n.17 (2022) ("Zoom is an online video platform, which has been used to facilitate remote hearings because some court hearings have not been able to be held in person due to the COVID-19 pandemic."). Indeed, for a period of time during the COVID-19 pandemic, proceeding by Zoom was necessary to allow courts to administer justice while at the same time protect the public health in this State.

This case, however, does not involve a virtual hearing due to COVID-19 health concerns. The vacatur hearing in this case was an in-person proceeding where everyone involved, except Mr. Lee, was present in person.

The parties have not cited, and our independent research has not revealed, any case directly addressing the issue presented here, i.e., whether a victim's right to attend a vacatur hearing means a right to attend in person or whether remote attendance satisfies that right.

The language of CP § 8-301.1 and the legislative history similarly do not shed light on the issue. We note, however, that CP § 8-301.1 was enacted in 2019, before the COVID-19 pandemic and the general acceptance and use of Zoom to conduct a wide range of court proceedings. Accordingly, we conclude that the intent of the General Assembly in giving crime victims the right to attend vacatur hearings was to give them the right to attend in person.

We recognize, however, that the lessons we learned during the pandemic about the availability of technology have value going forward, now that the COVID-19 risk is decreasing. Attendance by Zoom may be appropriate in some circumstances. That does not, however, take away from the value in attending a proceeding in person, when desired, particularly when all other individuals involved in the proceeding appear in person. Here, although § CP 11-102(a) provides that the victim "has the right to attend any proceeding in which the right to appear has been granted to a defendant," Mr. Syed was allowed to attend in person, but Mr. Lee was required to attend via Zoom.

In March 2022, with the COVID-19 risk decreasing, then-Chief Judge Getty issued an administrative order addressing the use of remote electronic participation in judicial proceedings. He noted specific rules of civil procedure that were "intended to take advantage of the technology that allows for reliable interactive communications to provide more efficient access to the courts without sacrificing the required fairness in judicial proceedings in circuit court civil proceedings." Administrative Order on the Implementation of Remote Electronic Judicial Proceedings at 1, ¶ 2 (March 28, 2022). We discuss two of those rules, which we find instructive in this case.

Rule 2-802(a), which addresses non-evidentiary proceedings in civil cases, provides that a court "**may permit or require** one or more participants or all participants to participate in a non-evidentiary proceeding by means of remote electronic participation," with some exceptions. (Emphasis added). Rule 2-803(a), by contrast, provides that a court, "on motion or on its own initiative, **may permit** one or more participants or all participants to participate in an evidentiary proceeding by means of remote electronic participation," under certain circumstances. (Emphasis added).

Although this is a criminal case, not a civil case, and there are no specific rules addressing remote proceedings in this type of proceeding, principles from these rules inform our analysis. The civil rules provide that, in both an evidentiary proceeding and a non-evidentiary proceeding, the court may permit, in some circumstances, a person to participate in a proceeding remotely. There certainly might be situations where a person would prefer to attend that way, due to travel distance, personal health, or other reasons, and utilizing technology to accommodate that preference, in appropriate circumstances, is valuable. In a civil evidentiary proceeding, however, the court does not have the authority to "require" a participant to participate via Zoom or other remote electronic proceeding.

We are of the view that, similar to the rule preventing a court from requiring a participant to participate remotely in an evidentiary proceeding in a civil case, a court is not permitted to *require* a victim, who has a right to attend a vacatur proceeding, to attend the proceeding remotely, in the situation where the defendant and other participants are permitted to attend in person. Nevertheless, that is what the court did here, in what indisputably was (or should have been) an evidentiary hearing.

If Mr. Lee wanted to attend the proceedings virtually, permitting him to do so would be fine. Mr. Lee advised through counsel, however, that he wanted to attend the hearing in person with the other participants, but he was not given sufficient notice to be able to do so. He asked for a postponement to be allowed to attend in person, but the court denied the request, despite there being no showing that it was necessary to hold the vacatur hearing that day, as opposed to granting Mr. Lee's request for a seven-day postponement. Under these circumstances, we conclude that the court erred and/or abused its discretion in failing to grant a postponement and in finding that Mr. Lee's attendance via Zoom satisfied his right, as a victim's representative, to attend the hearing.

In sum, we hold that in the circumstance where, as here, a crime victim or victim's representative conveys to the court a desire to attend a vacatur hearing in person, all other individuals involved in the case are permitted to attend in person, and there are no compelling reasons that require the victim to appear remotely, a court requiring the victim to attend the hearing remotely violates the victim's right to attend the proceeding. Allowing a victim entitled to attend a court proceeding to attend in person, when the victim makes that request and all other persons involved in the hearing appear in person, is consistent with the constitutional requirement that victims be treated with dignity and respect.

VI.

Right to Be Heard

Mr. Lee contends that the circuit court violated his right to be heard and to meaningfully participate in the hearing on the motion to vacate Mr. Syed's convictions.

He asserts that the court gave him "only 30 minutes' notice to race home, gather his thoughts without the input of counsel, and speak extemporaneously about his sister's murder—with no information about the evidentiary basis for vacatur." He also argues that the "court gave no consideration to Mr. Lee's statement; all indications are that it had already made its decision prior to the hearing."[33] Mr. Lee further contends that we should remand for a new vacatur hearing where he is "permitted to present evidence, call witnesses, and challenge the [S]tate's evidence and witnesses."

The State argues that Mr. Lee's right to be heard was violated because he was not given sufficient time to prepare a victim impact statement. It asserts that CP § 11-403(b) provides Mr. Lee with the right to give a statement. The State disagrees, however, that Mr. Lee has any right "to present evidence, call witnesses, and challenge the [S]tate's evidence and witnesses." It states that "[n]o such victim's rights exist in connection with the vacatur statute," noting that a victim is not a party to a criminal or juvenile proceeding. *See* CP § 11-103(b); Md. Rule 8-111(c).

Mr. Syed contends that, although CP § 8-301.1(d) provides the right to attend a vacatur hearing, it "does not provide the victim or victim's representative with the right to make a victim impact statement or to participate in any other way." He asserts that CP § 11-403 does not provide such a right because it applies only to a "sentencing or disposition

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[33] In that regard, Mr. Lee points to the court's comments indicating that it was aware that the State and Mr. Syed had arranged a joint press conference, and he asserts that "the court apparently coordinated with Mr. Syed's correctional facility to ensure that he had his property and street clothes on hand." He asserts that his "statement was, at best, an empty ritual."

hearing," which is not implicated in a vacatur proceeding, which involves legal arguments as opposed to a discretionary sentencing decision.[34]

As indicated, CP § 8-301.1(d) provides that, in vacatur proceedings, victims have the right to "be notified" prior to the hearing, *see* CP § 8-301.1(d)(1), and they have "the right to attend" the hearing, *see* CP § 8-301.1(d)(2). The statute does not, however, provide for a right to be heard at the vacatur hearing.

In other sections of Title 11 of the Criminal Procedure Article, however, the General Assembly has provided the victim with the right to be heard. For example, CP § 11-402(a) and (d) provide that a presentence investigation shall include a victim impact statement, and the court shall consider the statement in determining the appropriate sentence. CP § 11-403(b) provides that, in a sentencing hearing or disposition hearing in a juvenile court proceeding, where a sentence is imposed or altered, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition." Where language is included providing for a right in one provision, but not in a related provision, it suggests "that the absence of comparable language . . . was by design." *Md.-Nat. Cap. Park & Plan. Comm'n v. Anderson*, 164 Md. App. 540, 577 (2005), *aff'd*, 395 Md. 172 (2006). *See also Harris v. State*, 353 Md. 596, 606 n.3 (1999) ("The General Assembly has created specific intent

[34] Mr. Syed further argues that, even if Mr. Lee had the right to participate, he did so via Zoom. We have already explained, *supra*, that his appearance via Zoom did not satisfy Mr. Lee's right to attend pursuant to CP § 8-301.1(d). To the extent a victim has a right to be heard at a hearing, the same analysis would apply.

crimes, using explicit language to indicate the required specific intent. It is evident that when the Legislature desires to create a specific intent crime, it knows how to do so.").

The legislative history of CP § 8-301.1 also indicates an intent not to include the right to be heard at a vacatur hearing. When enacting CP § 8-301.1, the General Assembly was alerted to concerns that the victim should have the right to be heard at a vacatur hearing. At a hearing before the House Judiciary Committee, multiple people testified that the victim should have, not only the right to attend such a hearing, but also the right to be heard. *See* Hearing on H.B. 874 Before the H. Comm. on the Judiciary, 2019 Leg., 439th Sess. (Feb. 26, 2019). And Scott Shellenberger, Baltimore County State's Attorney, proposed adding language to the bill to provide that the victim had a "right to be heard at the hearing." *See* E-mail from Scott Shellenberger, Balt. Cnty. State's Att'y, to Del. Erek Barron (Feb. 25, 2019) (attached as exhibit to Letter from Del. Erek Barron to Md. Gen. Assemb. H. Jud. Comm., H.B. 874, 2019 Leg., 439th Sess. (Feb. 25, 2019)). Moreover, the Maryland Judiciary opposed the bill, noting: "[T]he bill indicates that in addition to a right to notice, a victim has a right to attend a hearing but it is not clear under this legislation if the victim has a right to be heard at the hearing." Memorandum from Suzanne D. Pelz, Esq., Md. Jud. Conf., to Md. Gen. Assemb. H. Jud. Comm., H.B. 874, 2019 Leg., 439th Sess. (Feb. 20, 2019).

Despite this voiced concern regarding the lack of an express provision allowing the victim the right to be heard at a vacatur hearing, the General Assembly did not include a right for a victim to give a statement at a hearing on a motion to vacate a conviction, notwithstanding that such a right was included in other statutes. Although we may think it

advisable to allow the victim the right to be heard at a vacatur hearing, particularly where there is no one advocating for the conviction to be upheld, the statute, as written, does not provide that right.

Mr. Lee and the State contend that, despite the lack of language providing a right to be heard in CP § 8-301.1, another statute, CP § 11-403, provides the right to be heard at a hearing on a motion to vacate a conviction. We are not persuaded.

CP § 11-403(b) provides that, in a sentencing hearing, or disposition hearing in a juvenile court proceeding, where a sentence is imposed or altered, "the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition."[35] This statute permits a victim to address the court before the imposition of a sentence or a disposition in a juvenile court proceeding, either initially or when altering the sentence or disposition. *See Hoile*, 404 Md. at 605–06 (CP § 11-403 addresses victims' right to be heard at sentencing hearings); *Antoine*, 245

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[35] CP § 11-403 provides:

(a) In this section, "sentencing or disposition hearing" means a hearing at which the imposition of a sentence, disposition in a juvenile court proceeding, or alteration of a sentence or disposition in a juvenile court proceeding is considered.

(b) In the sentencing or disposition hearing the court, if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition:

(1) at the request of the prosecuting attorney;

(2) at the request of the victim or the victim's representative; or

(3) if the victim has filed a notification request form under § 11-104 of this title.

Md. App. at 531 (CP § 11-403 "establishes the victim's right to address the court before the court imposes a sentence or other disposition.").

The imposition of a sentence is a discretionary decision, in which a relevant factor is the impact that the crime had on the victim. *See Medley v. State*, 386 Md. 3, 6 (2005) ("A sentencing judge has wide discretion in achieving the principal objectives of sentencing—punishment, deterrence, and rehabilitation."); *Ball v. State*, 347 Md. 156, 195 (1997) (At sentencing, "'trial judges must give appropriate consideration to the impact of crime upon the victims'; '[a]n important step towards accomplishing that task is to accept victim impact testimony wherever possible.'") (quoting *Cianos v. State*, 338 Md. 406, 413 (1995)), *cert. denied*, 522 U.S. 1082 (1998); *State v. Rodriguez*, 125 Md. App. 428, 442 (modification or reduction of a sentence is within the trial court's sound discretion), *cert. denied*, 354 Md. 573 (1999).

It certainly can be argued that the vacatur of a defendant's conviction is the ultimate alteration of a sentence, in the sense that it sets it aside. *See Walter v. Gunter*, 367 Md. 386, 395 n.8 (2002) ("Vacatur is . . . '[t]he act of annulling or setting aside. A rule or order by which a proceeding is vacated.'") (quoting *Vacatur*, *Black's Law Dictionary* (5th ed. 1979)). A hearing on a motion to vacate a conviction pursuant to CP § 8-301.1, however, does not involve a discretionary ruling regarding whether to alter a sentence. Rather, it is a proceeding after conviction and sentencing that seeks to vacate the judgment based on legal grounds. In this regard, a hearing on a motion to vacate a conviction pursuant to CP § 8-301.1 is similar to a motion for a new trial pursuant to CP §§ 6-105 and 6-106, a petition for post-conviction relief pursuant to the Uniform Postconviction Procedure Act, CP §§ 7-

101 to 7-301, a petition for a writ of actual innocence pursuant to CP § 8-301, and an appeal to this Court. In none of those proceedings is there statutory authority for the victim to have rights other than the right to notice and to attend, and victims generally do not speak at those proceedings.

If we were to hold that CP § 11-403(b) authorized a victim's right to be heard here, that would result in a huge shift in practice. We have not been given persuasive reasons to so hold.

Mr. Lee and the State point to Rule 4-333(h), which, after addressing the conduct of a vacatur hearing, includes the following: "**Cross reference:** For the right of a victim or victim's representative to address the court during a sentencing or disposition hearing, see Code, Criminal Procedure Article, § 11-403." This cross-reference, however, read in context with the statutory scheme, and in the absence of specific language in Rule 4-333 indicating that the victim has a right to be heard, suggests that it is listed as a comparison to victims' rights in sentencing hearings, where the victim does have the right to be heard. *See* Standing Committee on Rules of Practice and Procedure, *Two Hundred and First Report of the Standing Committee on Rules of Practice and Procedure*, at 17 (Sept. 12, 2019) (noting that the cross-reference was "included after section (h) to highlight the right of the victim or victim's representative to address the court during a sentencing or disposition hearing").

Mr. Lee argues that the Maryland Constitution gives victims rights, including the right "to be heard at a criminal justice proceeding, as these rights are implemented." Md. Const., Decl. of Rts., art. 47(b). The General Assembly, however, has implemented these

rights by giving victims and their representatives the right to be heard at sentencing proceedings, but not at a proceeding pursuant to CP § 8-301.1.

Accordingly, we hold that a victim or victim's representative does not have a *right* to be heard at a vacatur hearing. We note, however, that there is nothing preventing a court from giving a victim an opportunity to be heard at a vacatur hearing. Indeed, at the vacatur hearing in this case, Ms. Feldman stated that the SAO would not object "in any way to someone being present and participating if they wanted to," and the court permitted Mr. Lee to speak, albeit on Zoom. Although a victim does not have a statutory right to be heard, there are valid reasons to allow a victim that right in a vacatur hearing, and the court has discretion to permit a victim to address the court regarding the impact the court's decision will have on the victim and/or the victim's family.

VII.

Remedy

Having determined that Mr. Lee's rights to notice and to attend the vacatur hearing were violated, we turn to the appropriate remedy. As indicated, CP § 11-103(e)(2) and (3) provide that a court may grant a victim relief when the victim's rights were denied if the remedy does not violate the defendant's double jeopardy rights, and if the remedy modifies a sentence of incarceration, the victim requests relief within 30 days.

Here, Mr. Lee sought relief within 30 days by filing his notice of appeal. The remedy he seeks is to vacate the circuit court's order vacating Mr. Syed's convictions and sentence and order a new hearing on the State's motion to vacate the convictions, where his right to notice and to attend be honored. We can provide that remedy only if it does

not violate Mr. Syed's "constitutional right . . . to be free from double jeopardy." CP § 11-103(e)(2).

The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution provides that no person "shall . . . be subject for the same offence to be twice put in jeopardy of life or limb . . . ." U.S. Const. amend. V. "[D]ouble jeopardy invokes a number of distinct principles and prohibitions." *Moore v. State*, 198 Md. App. 655, 684 (2011). When dealing with a "phenomenon such as double jeopardy, it is indispensable at the outset to identify the particular species of double jeopardy being invoked." *Fields v. State*, 96 Md. App. 722, 725 (1993).

"The United States Constitution's Fifth Amendment Double Jeopardy Clause protects against three types of double jeopardy, derived from the 'three related common-law pleas' of autrefois acquit, autrefois convict, and pardon." *Antoine*, 245 Md. App. at 558 (quoting *United States v. Wilson*, 420 U.S. 332, 340 (1975)). The plea of autrefois acquit provides that "the State cannot reprosecute a defendant after an acquittal." *Scott v. State*, 454 Md. 146, 152 (2017). The pleas of autrefois convict and pardon provide that "a criminal defendant may not be prosecuted twice for the same offense after conviction and may not be punished multiple times for the same offense." *Giddins v. State*, 393 Md. 1, 25–26 (2006).

Mr. Syed does not contend, for good reason, that vacating the order vacating his convictions would violate his right against double jeopardy. As explained below, we conclude that returning this case for a new vacatur hearing does not violate Mr. Syed's constitutional protection against double jeopardy.

Ordering a new vacatur hearing would not result in a second prosecution after conviction or acquittal. The result of a new vacatur hearing will be to either reinstate the initial conviction or vacate it again. There would not be a second prosecution.

Ordering a new vacatur hearing would not result in a second prosecution after acquittal for another reason, i.e., the grant of the motion to vacate was not an acquittal. An acquittal requires "a resolution, correct or not, of some or all of the factual elements of the offense charged.'" *Kendall v. State*, 429 Md. 476, 479 (2012). A ruling constitutes an acquittal for double jeopardy purposes if the court "depended on an evaluation of facts bearing on whether the defendants were guilty of the crimes charged." *Id.* at 487.

Here, the court's grant of the motion to vacate was not an acquittal. The court's decision to vacate Mr. Syed's convictions was based solely on whether the State established grounds for vacating the convictions pursuant to CP § 8-301.1. The court did not purport to be resolving any factual question relating to the charges against Mr. Syed, including whether he was guilty or innocent of the offenses charged. Thus, the grant of the motion to vacate did not trigger the protection against double jeopardy.

Additionally, the State's entry of the nol pros was not an acquittal. It is well established that "a nolle prosequi is not an acquittal or pardon of the underlying offense and does not preclude a prosecution for the same offense under a different charging document or different count." *Ward*, 290 Md. at 84. "[T]here is nothing inherent in the nature of a nolle prosequi which causes its entry to operate as an acquittal of the underlying offense." *Id.* at 85. Accordingly, the violation of Mr. Lee's rights can be remedied without violating Mr. Syed's constitutional right to be free from double jeopardy.

VIII.

Conclusion

Because the court violated Mr. Lee's right to notice of, and his right to attend, the hearing on the State's motion to vacate, in violation of CP § 8-301.1(d), "we have the power and obligation to remedy that injury." *Antoine*, 245 Md. App. at 561. Therefore, we vacate the circuit court's order vacating Mr. Syed's convictions and sentence, which results in the reinstatement of the original convictions and sentence. We remand for a new, legally compliant, transparent hearing on the motion to vacate, where Mr. Lee is given notice of the hearing that is sufficient to allow him to attend in person, evidence supporting the motion to vacate is presented, and the court states its reasons in support of its decision.

Mr. Lee argues that, at the remand hearing, he should be "permitted to mount a credible challenge to the evidence supporting vacatur." To that end, he requests that this Court "appoint him as a limited-purpose party-in-interest," or alternatively, appoint the Attorney General's Office or other suitable entity, to challenge the evidence during a new hearing. That request is denied.

We will exercise our discretion to stay the effective date of the mandate for 60 days from the issuance of this opinion. That gives the parties time to assess how to proceed in response to this Court's decision.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED; CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID 50%

BY THE MAYOR & CITY COUNCIL OF BALTIMORE AND 50% BY ADNAN SYED.

Circuit Court for Baltimore City
Case No. 199103042

REPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1291

September Term, 2022

YOUNG LEE, AS VICTIM'S REPRESENTATIVE

v.

STATE OF MARYLAND, ET AL.

Wells, C.J.,
Graeff,
Berger,

JJ.

Dissenting Opinion by Berger, J.

Filed: March 28, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

I, respectfully, dissent. In my view, this appeal was rendered moot by the State's entry of a nol pros[1] following the grant of the State's vacatur motion. I disagree with the Majority that the nol pros was a legal nullity. Nonetheless, because this case presents issues that are likely to recur and evade review as well as matters of important public concern, I would exercise discretion to consider the merits. On the merits, I agree with the Majority's analysis in Part VI of the Majority Opinion, in which the Majority held that Mr. Lee had no right to be heard at the vacatur hearing. Where I part ways with the Majority on the merits, however, is with respect to the notice provided to Mr. Lee as well as his right to attend. In my view, the timing of the notice in relation to the hearing should not be considered in a vacuum, but rather, in the context of whether the notice was adequate to enable the victim or victim's representative to attend. I would not find a violation of the victims' rights statute in this unique case when Mr. Lee was notified -- albeit one business day before the vacatur hearing -- and ultimately attended the vacatur proceeding electronically.

I. Mootness

I take no issue with the Majority's articulation of the mootness standard, *i.e.*, that a case is generally moot if no controversy exists between the parties or when the court can

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[1] "A nolle prosequi, or nol pros, is an action taken by the State to dismiss pending charges when it determines that it does not intend to prosecute the defendant under a particular indictment." *Huntley v. State*, 411 Md. 288, 291 n.4 (2009). "[W]hile a nolle prosequi discharges the defendant on the charging document or count which was nolle prossed, and while it is a bar to any further prosecution under that charging document or count, a nolle prosequi is not an acquittal or pardon of the underlying offense and does not preclude a prosecution for the same offense under a different charging document or different count." *Id.* (quotation omitted).

no longer fashion an effective remedy. The Majority's determination that this appeal is not moot is premised upon its conclusion that the nol pros was void and constituted a legal nullity. I, respectfully, disagree that the nol pros was a legal nullity.

As the Majority acknowledges, the State's Attorney generally has broad discretion to enter a nol pros. *State v. Simms*, 456 Md. 551, 561 (2017). Although the Supreme Court of Maryland (at the time named the Court of Appeals of Maryland)[2] has acknowledged that the State's power to nol pros is "not absolute" or "without restraint," *Hook v. State*, 315 Md. 25, 35–36 (1989), the actual limits that have been imposed upon the State's authority to nol pros are quite narrow. Indeed, it is well established that the State may not enter a nol pros that has the purpose or necessary effect of circumventing the *Hicks* rule, *i.e.*, the defendant's right to a trial within 180 days.[3] *Curley v. State*, 299 Md. 449, 462 (1984). The Supreme Court most recently addressed limits on the State's authority to nol pros in the case of *Simms*, *supra*, 456 Md. at 551. The Majority reads *Simms* and *Hook* as generally limiting the State's authority to enter a nol pros when doing so would violate fundamental fairness, and, in some instances, circumvent the right to appeal. In my view, as I shall

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[2] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Md. Rule 1-101.1(a) ("From and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland . . . .").

[3] *State v. Hicks*, 285 Md. 310 (1979).

explain, the reasoning of *Simms* and *Hook* do not extend to the circumstances before us in this appeal.

In *Simms*, after a criminal defendant was convicted and sentenced, the defendant noted an appeal to this Court. 456 Md. at 554–55. The defendant raised arguments on appeal that the evidence was insufficient to support his convictions. *Id.* at 569. While the direct appeal was pending, but before oral arguments were held, the State nol prossed the charge underlying the defendant's conviction and sentence and subsequently moved to dismiss the defendant's appeal as moot. *Id.* at 555. On certiorari to the Supreme Court of Maryland, the State argued that the appeal was moot in light of the subsequent nol pros. The Supreme Court held that the case was not moot because the State "does not have the authority to enter a nol pros after a final judgment has been entered against a defendant in a criminal case." *Id.* at 576. The Court emphasized that "[t]he State had no authority to use its power to nol pros to alter a final judgment entered in favor of or against a criminal defendant. Final judgment is the boundary of the State's discretion to enter a nolle prosequi." *Id.* The Court, therefore, determined that "the nol pros entered in the trial court as to the charge underlying the conviction and sentence was simply a nullity, 'improper' and therefore 'ineffective.'" *Id.*

The Majority also looked to *Hook, supra*, 315 Md. at 43–44, which held that it was "fundamentally unfair" for the State to nol pros a lesser included offense when the evidence was sufficient to convict the defendant of either a greater offense or lesser included offense. The Supreme Court explained that "the exceptional circumstances of this case present a rare occasion calling for a tempering of the broad authority vested in a State's Attorney to

terminate a prosecution by a nolle prosequi," observing that the State's conduct in nol prossing the lesser included offense "was inconsistent with the rudimentary demands of fair procedure." *Id.* at 41–42.

The Majority asserts that the State's entry of a nol pros under the circumstances presented in this case violated the requirement that a nol pros conform "to the rudimentary demands of fair procedure" as articulated in *Hook*, *supra*, 315 Md. at 42. The Majority further emphasizes that the nol pros resulted in an injustice to Mr. Lee because it prevented appellate review and prevented victims from receiving the rights to which they are entitled. I do not read *Simms* or *Hook* nearly as broadly as the Majority. First, I observe that the fundamental fairness principle discussed in *Hook* focused upon the fair procedure owed to a criminal defendant whose liberty interest was at stake. "The State of Maryland has expressed a clear public policy . . . to provide broad rights to crime victims . . . in both Maryland's trial and appellate courts." *Antoine v. State*, 245 Md. App. 521, 539 (2020). Indeed, those rights are enshrined in the Maryland Constitution, which recognizes a victim's right to "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process." Md. Const. Decl. of Rts., art. 47(a). Victims' rights, however, are not the same rights as those granted to criminal defendants, and I would not extend the fundamental fairness principle articulated in *Hook* to the situation presented in this appeal.

Furthermore, I would not extend the holding of *Simms* to the circumstances presented in this appeal. The *Simms* Court held that "after a defendant has received a final judgment in the form of a conviction and sentencing, the State may not enter a nolle

prosequi to alter the final judgment. Upon conviction and sentencing based upon an underlying charge, the underlying charge is no longer pending and the State's authority to enter a nol pros has ended." 456 Md. at 578. Unlike *Simms*, this case did not involve a final judgment in the form of a conviction and sentencing. At the time the State entered the nol pros, there was no underlying conviction. I do not read *Simms* as restricting the State's authority to enter a nol pros after the grant of a motion to vacate a conviction.

I would hold that the State acted within its broad authority to enter a nol pros following the vacatur ruling. Indeed, it is well established that trial courts "are not stripped of their jurisdiction to take post-judgment action simply because an appeal is pending from that judgment." *Cottman v. State,* 395 Md. 729, 740 (2006).[4] "[A]bsent a stay required by law, or one obtained from an appellate court," the trial court "has the authority to exercise the 'fundamental jurisdiction' which it possesses." *Id.* at 740–41 (quotation omitted).

In my view, this case is more similar to *Cottman*, in which the circuit court granted the defendant a new trial when the defendant's conviction was pending on appeal. *Id.* at 736–37. The Supreme Court determined that the "appeal became moot the instant that the [c]ircuit [c]ourt granted him a new trial." *Id.* at 743. The appeal in the instant case similarly became moot when the State entered a nol pros. Moreover, I emphasize that Md. Rule

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[4] The Majority considers the out-of-state cases of *Sanders v. State*, 869 S.E.2d 411 (Ga. 2022) (holding the nol pros of a reindictment was a nullity when the denial of a first indictment was pending on appeal), and *Commonwealth v. Hudson*, 92 A.3d 1235 (Pa. Super.), *appeal denied*, 106 A.3d 724 (Pa. 2014) (holding that there was no authority to enter a nol pros while an appeal of a grant of a motion to suppress was pending). The Majority acknowledges, however, that in Maryland, unlike *Sanders* and *Hudson*, trial courts are "not stripped of their jurisdiction to take post-judgment action." *Cottman, supra*, 395 Md. at 740.

4-333(i) provides that "[w]ithin 30 days after the court enters an order vacating a judgment of conviction or probation before judgment as to any count, the State's Attorney *shall* either enter a nolle prosequi of the vacated count or take other appropriate action as to that count." (Emphasis provided.) Indeed, the State acted consistently with this mandatory Maryland Rule when entering the nol pros in this case.[5]

The Majority's holding that the nol pros was "void" and a "nullity" is the basis upon which the Majority concludes that this appeal is not moot. The Majority characterizes this case as presenting "exceptional circumstances" that "exist to temper the authority of the State to enter a nol pros." I would hold the State acted within its authority to dismiss the charges when it entered a nol pros after the circuit court vacated Mr. Syed's convictions. The nol pros was "not void *ab initio* for lack of jurisdiction to enter it." *Cottman*, *supra*, 395 Md. at 742. Following the entry of the nol pros in this case, Mr. Syed was no longer a defendant in a criminal case. In my view, there is no underlying case in which to enter a remand, rendering this appeal moot.

Nevertheless, I am persuaded that this appeal presents unresolved issues that are capable of repetition, yet evading review and that involve matters of important public concern. *See In re S.F.*, 477 Md. 296, 318–19. Accordingly, I would exercise discretion to undertake appellate review of the merits.

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[5] If the General Assembly or Rules Committee wished to provide a specific exception to the 30-day requirement for entry of a nol pros if an appeal of the vacatur ruling was pending, they certainly could have done so.

II. Merits

The Majority rejects Mr. Lee's assertion that he should have been provided more notice of the filing of the vacatur motion in this case, as well as Mr. Lee's contention that he should have been provided with notice of and the opportunity to attend the chambers discussion that occurred on Friday, September 16, 2022. I agree with the Majority on both of the above points. Where I part ways with the Majority is with respect to the notice required for the vacatur hearing on Monday, September 19, 2022. I would hold that the notice sufficiently complied with the requirements of the statute because, critically, it enabled Mr. Lee to attend the proceeding via electronic means.

Md. Code (2001, 2018 Repl. Vol., 2021 Supp.), Section 8-301.1 of the Criminal Procedure Article ("CP") sets forth the procedure by which the State may move to vacate a judgment of conviction. With respect to notice to a victim or victim's representative, the statute requires that "[b]efore a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article." CP § 8-301.1(d). Maryland Rule 4-333(g)(2) further provides that "the State's Attorney shall send written notice of the hearing to each victim or victim's representative, in accordance with Code, Criminal Procedure Article, § 11-104 or § 11-503. The notice shall contain a brief description of the proceeding and inform the victim or victim's representative of the date, time, and location of the hearing and the right to attend the hearing." "If the . . . victim or victim's representative entitled to notice under . . . this Rule is not present at the hearing, the State's Attorney shall state on the record the efforts made to contact that person and provide notice of the hearing." Md. Rule 4-333(h)(1).

I agree with the Majority that the notice requirement must be interpreted consistently with the constitutional and statutory mandate that crime victims "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process." Md. Const. Decl. of Rts., art. 47(a), CP § 11-1002(b)(1). I further agree with the Majority that the notice requirement must be interpreted consistently with the legislative intent that a victim has the right to notice and to attend the vacatur hearing. I do not, however, agree that the notice in this case was unreasonable simply because Mr. Lee was notified of the hearing date one business day prior to the hearing. In my view, the notice requirement must be considered in concert with the right to attend, and, in this case, Mr. Lee was ultimately able to attend the vacatur hearing, albeit electronically. As such, the timing of the notice in relation to the hearing is not considered in a vacuum but, rather, in the context of whether the notice was adequate to enable the victim or victim's representative to attend. One business day's notice might not have been reasonable if an electronic attendance option were unavailable, and I generally echo the concerns of the Majority regarding the short time period between when the victim was notified and the vacatur hearing was held. Critically, however, in this instance, Mr. Lee was permitted to and did attend the proceedings electronically.

The Majority holds that attendance via Zoom was insufficient to satisfy Mr. Lee's right to attend the vacatur hearing. The Majority acknowledges that Zoom hearings became commonplace throughout Maryland during the COVID-19 pandemic, but emphasizes that this case did not involve a virtual hearing due to COVID-19 health concerns. The Majority further emphasizes that CP § 8-301.1(d)(2) was enacted prior to

the COVID-19 pandemic and the General Assembly presumably anticipated in-person attendance when it drafted the statute.

The Majority points to Maryland Rules 2-802(a) and 2-803(a), which provide, respectively, that a court "may permit or require . . . participants to participate in a non-evidentiary proceeding by means of electronic participation," Md. Rule 2-802(a), but "may permit . . . participants to participate in an evidentiary proceeding by means of remote electronic participation." Md. Rule 2-803(b). The Majority acknowledges that Maryland Rules 2-802 and 2-803 are applicable to civil matters, not criminal matters. Nonetheless, the Majority posits that principles from these rules inform the analysis in this case.

The Majority emphasizes that, at least in civil cases, the court is not specifically authorized to "require" electronic participation in evidentiary proceedings but is specifically authorized to "require" electronic participation in non-evidentiary proceedings. The Majority is of the view that, similar to the rule preventing a court from requiring a participant to participate in an evidentiary proceeding in a civil case remotely, a court is not permitted to require a victim, who has a right to attend a vacatur proceeding, to attend the proceeding remotely. I disagree.

Even if one were to assume that the principles of Maryland Rules 2-802 and 2-803 apply in the context of this criminal case, I find it notable that Rules 2-802 and 2-803 apply to participants -- not to other individuals who may have the right to attend. Mr. Lee does not satisfy the definition of "participant" under Rules 2-802 and 2-803. For the purposes of Maryland Rules 2-802 and 2-803, "participant" is defined as "a party, witness, attorney for a party or witness, judge, magistrate, auditor, or examiner, and any other individual

entitled to speak or make a presentation at the proceeding." Md. Rule 2-801. Mr. Lee, as a victim's representative, does not fall under this definition. The Majority held, and I agree, that Mr. Lee had no right to be heard, present evidence, or otherwise participate in any way at the vacatur hearing. Notably, a victim, or a victim's representative, is not a party to a criminal proceeding. *Hoile v. State*, 404 Md. 591, 606 (2008) ("There are only two parties, the State of Maryland and Hoile.") (citing *Lopez-Sanchez v. State*, 388 Md. 214, 226 (2005) ("The victim is not a party to the proceeding . . . although vested with statutory and constitutional rights . . . ."), *superseded by statute on other grounds,* 2006 Md. Laws Ch. 260 (S.B. 508), *as recognized in Hoile, supra*, 404 Md. at 605).

In my view, there are distinct differences between remote participation and in-person participation that are not implicated when an individual has the right to attend but not participate. It is conceivable that an in-person presentation might be more compelling to a fact-finder than a presentation made via electronic means. These concerns are not implicated when an individual has the right to attend but not to participate. Section 8-301.1 of the Criminal Procedure Article provided Mr. Lee the right to *attend* the vacatur hearing, not to *participate*. I would hold that Mr. Lee's attendance via Zoom was sufficient to satisfy this requirement.

The record reflects that the circuit court judge took careful steps to ensure that Mr. Lee had been notified and was afforded the opportunity to attend the vacatur hearing via Zoom. At the beginning of the hearing, the circuit court asked the prosecutor to explain "specifically what notice the State gave to the victim's family in this case." The prosecutor explained that she spoke with Mr. Lee on the telephone on Tuesday, September 13, 2022

and informed him that the State would be filing a motion to vacate. The prosecutor "went through the motion a bit with him" and "sent him a copy of the motion that day." The motion was filed on September 14, 2022.

After the chambers conference on Friday, September 16, 2022, the prosecutor emailed Mr. Lee at 1:59 p.m. to inform him of the date of the vacatur hearing. The email informed Mr. Lee that "[t]he court just scheduled an in-person hearing for Monday, September 19th at 2:00 PM (EST)." The prosecutor explained that although it was an "in-person hearing," she had "asked the court permission for [Mr. Lee] and [his] family to watch the proceedings virtually if [they] would like to watch." The prosecutor included a Zoom link and asked Mr. Lee to "[p]lease let [her] know if anybody from [the] family will be joining the link" so that she could "make sure the court lets [them] into the virtual courtroom."

The prosecutor explained that she did not receive a response to her email, so she followed up with Mr. Lee via text message on Sunday, September 18. Mr. Lee responded via text. He told the prosecutor that he had received the email and stated that he "will be joining." On the morning of the vacatur hearing, counsel entered an appearance for Mr. Lee and moved to postpone the hearing. At the outset of the vacatur hearing, after considering argument from the parties, the circuit court denied the motion to postpone.[6] The court explained that it would "give [counsel for Mr. Lee] time to . . . get Mr. Lee and

[6] I shall not restate the details surrounding the argument on the motion to postpone. I take no issue with the Majority's summary of this issue.

have him join this Zoom." The court stated that "if [Mr. Lee] wants to speak, [the court] will allow him to speak first."

Counsel for Mr. Lee informed the court that he was "unable to advise [his] client" because he was "at work at this point." The court asked counsel for Mr. Lee to step outside of the courtroom to "call Mr. Lee and see what he wants to do." After telephoning his client, counsel for Mr. Lee informed the court that he "was able to reach [Mr. Lee]" and requested thirty minutes for Mr. Lee to get home from work "to a private place where [h]e can participate." The court granted this request and announced a thirty-minute recess at 2:44 p.m. The court reconvened at 3:35 p.m. Mr. Lee was present via Zoom and made a statement.[7] After Mr. Lee's statement, the circuit court thanked Mr. Lee and acknowledged "how difficult" and "very emotional" the day was for him. The court told Mr. Lee that it "appreciate[d] him joining the Zoom this afternoon to make this statement because it is important to hear from the victim or the victim's representative."

Therefore, not only did Mr. Lee "attend" the proceeding -- albeit virtually -- as was his right under both the vacatur and the victims' rights statutes, but the trial judge permitted both Mr. Lee and his counsel to address the court during the proceedings, something the Majority and I both agree neither statute requires. Indeed, in addressing Mr. Lee's counsel, the trial judge noted that:

> [Y]our client indicated that he would participate via Zoom. I don't think Zoom is foreign anymore. I think everyone knows what Zoom is. Participate, you know, we do victim's rights, I do it every day on Zoom and the victims come on and they give their victim's impact statements. And it's

[7] Mr. Lee's full statement is reproduced in the Majority's Opinion.

> recorded and it's recorded in the courtroom with this blue man, which is CourtSmart.
>
> So they [the representatives of the victims] have every opportunity to participate. And, I'm giving your client, your client the opportunity to participate now via Zoom if he'd like to speak I will hear from him.

Accordingly, the court acknowledged that Zoom was a practical and serviceable method that courts had been using to allow remote participation in court proceedings. Ultimately, the court provided Mr. Lee with both the attendance he was entitled to, and the judge exercised her discretion in affording him the opportunity to participate. Under the circumstances, I disagree with the Majority that Lee's attendance, via Zoom, did not satisfy his rights, as a victim's representative, to attend the proceedings.

In no way do I intend to minimize the pain suffered by Mr. Lee and by all crime victims and their families, and I recognize the important protections granted to victims and victims' representatives under the Maryland Constitution and by statute. Nonetheless, in my view, the procedure afforded to Mr. Lee in this case was sufficient to satisfy the requirements of the applicable statute. I would hold that the notice Mr. Lee received was sufficient to comply with the requirements of CP § 8-301.1 and Md. Rule 4-333 because it enabled him to attend the vacatur proceeding electronically. Though it was not required to do so, and would not be required to do so on remand, *see Maj. Op. Part VI*, the circuit court permitted Mr. Lee to be heard at the vacatur hearing. In my view, it is for the General Assembly to impose more specific requirements regarding the timing of notice to victims and victims' representatives for vacatur hearings if it is inclined to do so. Similarly, the Rules Committee could recommend and the Supreme Court could adopt more specific

requirements. Accordingly, I would affirm the judgment of the Circuit Court for Baltimore City. For these reasons, I, respectfully, dissent.