2019-2020
MYLaw High School Mock Trial Case & Competition

Wolfe v. Shepherd

We would like to acknowledge our tremendous appreciation for
our talented MYLaw Mock Trial Committee:
Erik Atas, Esq., who authored this casebook,
&
Ben Garmoe, Esq. and the Honorable Kathleen Chapman,
who reviewed this casebook.

With gratitude to the Maryland Judiciary, Maryland Bar Foundation
& Maryland State Department of Education

www.mylaw.org
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Important Contacts for the Mock Trial Competition

Please call your local coordinator for information about your county/circuit schedule.
Your second point of contact is the State Mock Trial Director:
Cynthia O'Neill, cynthia@mylaw.org, 667-210-2517
Maryland Youth & the Law

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MYLAW High School Mock Trial Competition 2019-2020 Calendar Season

*Note: All competition dates are final.
A change by the Chief Judge of the State of Maryland is the only exception.

Registration Deadline: Friday, November 1, 2019
Casebooks Mailed to Paid & Registered Teams: Thursday, November 7, 2019
Circuit Competitions May Begin: January 2, 2020
Circuit Champions Must be Declared by: March 12, 2020
Regional Competitions: Tuesday, March 17, 2020 & Wednesday, March 18, 2020
State Semi-Finals, Anne Arundel Circuit Courthouse: March 26, 2020 at 4:00PM
State Championship, Maryland Court of Appeals, Annapolis: March 27, 2020 at 10:00AM

MARYLAND YOUTH & THE LAW
IN PARTNERSHIP WITH MSBA

Dear Students & Coaches:

Welcome to the 2019-20 MY High School Mock Trial Competition! It has been thirty seven years since Mock Trial was initiated here in Maryland, with just five teams in the first year of the competition. Today, we have more than 150 participating teams. We wish to thank all those who so generously contributed to the 2019-20 Mock Trial Competition. It is because of these businesses and individuals that MYLaw's Mock Trial is able to continue into its 37th year.

Whether you are a first year team member or a thirty-year veteran coach, we hope you will share our excitement for some of the strategic changes we are making. You will note significant changes to the Competition Rules and Rules of Evidence. We strongly encourage you to read this entire book, cover to cover, as part of your preparation for this year's competition.

You will note that we have omitted one rule, Invention of Fact, and added in several new ones. This is intentional, and meant to position our high school students to effectively transition into national and/or collegiate level competitions. The MYLaw Mock Trial Rules of Evidence mirror the Federal Rules of Evidence, but we have omitted the ones that are not relevant for the purposes of this competition. We strongly encourage your team to seek an Attorney Advisor to help you work through the application of these rules.

While certain elements have changed, our primary curricular objectives for the MY Mock Trial competition remain constant: to further understanding and appreciation of the rule of law, court procedures, and the legal system; to increase proficiency in basic life skills such as listening, speaking, reading, and critical thinking; to promote better communication and cooperation between the school system, the legal profession, and the community at large; and to heighten enthusiasm for academic studies as well as career consciousness of law-related professions.

We hope you enjoy this year's civil case as it addresses the timely topics of marijuana use and possession, and Fourth Amendment issues involving law enforcement. We hope the subject matter will spark thoughtful discussion among your team members. As always, we appreciate your participation and hope you enjoy this competition. Have a safe and successful year. Best of luck to you!

Best Regards,

Shelley Brown
Executive Director
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Cynthia O'Neill
State Program Coordinator
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COMPETITION RULES

1. GENERAL

1.1. Applicability. These rules shall apply to all MYLAW Mock Trial competitions. Participants are cautioned that the absence of enforcement of any rule within the local circuit competition does not mean the rule will not be enforced at the Regional, Semi-Final, and/or State competition.

1.2. Diversity and inclusion. MYLAW has a policy of inclusion, and welcomes all participants regardless of race, color, religion, gender, sex, sexual orientation, gender identity, national origin, age, disability, ancestry, genetic information, or any other category protected by federal, state or local law.

1.3. Expectation of participants, coaches, hosts and volunteers. Ethical and professional behavior is expected at all times during all phases of the MYLAW Mock Trial Competition. MYLAW prohibits discrimination, retaliation, or harassment in all its forms, by any individual or team. Inappropriate behavior includes but is not limited to:

- Discriminatory comments based upon any ground listed in 1.2;
- Failure to show respect;
- Violating any of the rules outlined within the casebook;
- Adhering strictly to the "No Coaching" rule;
- Engaging in irresponsible behavior that puts oneself or others at risk, including intoxication at any time during competitions;
- Illegal conduct of any sort.

1.4. Ideals of MYLAW Mock Trial. To further understanding and appreciation of the rule of law, court procedures, and the legal system; to increase proficiency in basic life skills such as listening, speaking, reading, and critical thinking; to promote better communication and cooperation between the school system, the legal profession, and the community at large; and to heighten enthusiasm for academic studies as well as career consciousness of law-related professions.

1.5. Integrity. Individuals, teams, coaches and volunteers shall at all times demonstrate the highest standard of ethical conduct, courtesy, legal professionalism, competence and integrity.

1.6. Damage to property. No participant shall intentionally take, move, or cause damage to any property of any school, courthouse, or facility hosting any part of a MYLAW Mock Trial competition.

2. ROLES

2.1. Teacher Coach. The team's teacher coach is considered the primary contact for each school. The Coach's primary responsibility is to demonstrate that winning is secondary to learning.

a. Coaching goals**.** The Teacher Coach shall coach and mentor students about the "real world" aspects of judging in competitions; including but not limited to competition rules, sportsmanship, team etiquette, procedures, and courtroom decorum.

b. Coaches' responsibilities. The Teacher Coach shall recruit students for the team; arrange practice sessions and scrimmages; coordinate transportation to and from competitions; supervise the team during practices and competitions; work within the school and greater community to recruit an attorney advisor; communicate with opposing teams prior to competition regarding any relevant issues including the identification of witnesses; and ensure that the team arrives at all scheduled mock trial competitions. Every coach has an obligation to instill by example in every student, respect for judges, officials and other members of the MYLAW Mock Trial community.

2.2. Circuit Coordinator. Maryland is divided into eight judicial circuits. For the purpose of the Maryland Mock Trial Competition, local competitions will be divided and organized according to the eight judicial circuits. Each circuit shall have a Circuit Coordinator, who will serve as the primary contact for coaches and advisors. Circuit Coordinator contact information is listed on the inside front cover of this book.

MYLAW will send official communication to the Circuit Coordinator who is then responsible for disseminating the information to all Teacher Coaches within their respective circuit. The Circuit Coordinator shall make decisions or mediate at the local level when problems or questions arise; establish the circuit competition calendar; arrange for courtrooms, judges, and attorneys for local competitions; and arrange general training circuit-wide or county-wide sessions if necessary.

2.3. Local and State Bar Associations. The Bar Associations shall advocate involvement of local attorneys in advising teams and hearing/scoring trials.

2.4. Attorney Advisors. It is the role of the Attorney Advisor to teach basic court processes and procedures, to review and explain modified rules of evidence and their application to the case at hand, and most importantly, to exemplify fairness, professionalism, integrity, and the ideals of the American justice system. In the absence of an Attorney Advisor, these responsibilities become that of the Teacher Coach.

2.5. MYLaw. MYLaw shall provide Mock Trial Guides and rules for the State competition; disseminate information to each circuit; provide technical assistance to Circuit Coordinators; provide certificates to all registered participants who compete for the season; assist in recruitment of schools; and act as liaison in finding legal professionals to assist teams.

3: REGISTRATION AND PAYMENT

3.1. Registration information. Registration information is available on the MYLAW.org website. Registration may be completed online or by mail.

3.2. Team Payment. Payment is expected by the registration deadline. Payments may be made by check or submitted through the PayPal link found on the MYLAW.org website. An invoice is available on the MYLAW.org website for your convenience.

3.3. Primary Contact/Teacher Coach. Each school must have a primary contact person, in most cases the Teacher Coach, in order to register. The Teacher Coach shall be the person MYLAW and/or the Circuit Coordinator communicates with when applicable. All primary contact persons' information shall be current, and shall be listed on the registration form at the time of registration. If a teacher is not available to serve as the primary contact, a parent, administrator or other school affiliate may do so with the permission of the school principal.

4. TEAMS

4.1. Team make-up. A team must be comprised of no fewer than eight (8) but a maximum of twelve (12) student members from the same high school, with the exception of high schools with a Maryland State Department of Education inter-scholastic athletics designation of Class 2A or Class 1A, which may combine with any other schools in the LEA in those classifications to field a team.

a. Two "alternate" students are permitted during the local competition only. If a coach wishes to carry those two alternates forward to state competitions, any related expenses are the responsibility of the school.
b. If a team advances beyond the local competition, an official roster must be submitted not to exceed twelve (12) students.

4.2. Team Roles. Teams may use its members to play different roles in different competitions.

a. For any single competition, all teams are to consist of three attorneys and three witnesses, for a total of six (6) different students.
b. Note: In Circuits 1 and 2, where teams typically participate in two competitions per evening – once as the prosecution and once as the defense – students may change roles for the second competition.

4.3. Fielding teams. High schools that field two or more teams shall not, under any circumstances, allow students from Team A to compete for Team B or vice-versa.

a. Each team must have its own Teacher Coach and Attorney Advisor, separate and apart from the other team.
b. If a high school has multiple teams, then those teams must compete against one another during the local competition.

4.4. Team Information. Teacher Coaches of competing teams are to exchange information regarding the names and gender of their witnesses at least one day prior to any given round.

a. Teacher Coach for the plaintiff/prosecution should assume responsibility for informing the defense Teacher Coach.
b. A physical identification of all team members must be made in the courtroom immediately preceding the trial.

4.5. Attorney Advisor. Every effort should be made for teams to work with an Attorney Advisor to effectively prepare for competition.

4.6. Attendance of an opponent's competition is prohibited. Members of a school team entered in the competition, including Teacher Coaches, back-up witnesses, attorneys, and others directly associated with the team's preparation, shall not attend the enactments of any possible future opponent in the contest.

5. COMPETITION

5.1. Forfeits are prohibited. All registered teams agree to attend all scheduled competitions.

a. Team with inadequate number of students (i.e. due to illness, athletics, or other conflicts), are expected to attend and participate in the competition, regardless.
b. In these instances, a team will "borrow" students from the opposing team, in order to maintain the integrity of the competition, and respect for the Court, Presiding Judge, attorneys and the other team that has prepared for, and traveled to, the competition.
c. The competition will be treated as an automatic win for the opposition.
d. Coaches should make every effort to notify the local coordinator and the other coach in advance of the competition if there are an inadequate number of team members.
e. When an opposing team does not have enough students to assist the other team, students may depict two or more of the roles (i.e. they may depict 2 witnesses or play the part of 2 attorneys).

5.2. Local competitions. Local competitions must consist of enough matches that each participating high school presents both sides of the Mock Trial case at least once.

5.3. Areas of competition. Areas of competition coincide with the eight Judicial Circuits of Maryland.

Circuit #1: Worcester Wicomico, Somerset Dorchester	Circuit #2: Cecil, Kent, Queen Anne's, Talbot	Circuit #3: Baltimore Co., Harford	Circuit #4: Allegany, Garrett, Washington

Circuit #5: Anne Arundel, Carroll, Howard	Circuit #6: Frederick, Montgomery	Circuit #7: Calvert, Charles, Prince George's, St. Mary's	Circuit #8: Baltimore City

5.4. "Unofficial" Circuit.

a. Each circuit must have a minimum of four teams. Circuits that have less than four teams must abide by the following:
   1. If a circuit has up to three teams but less than the required minimum of four participating teams, the teams may compete in a "Round Robin" that advances the winner to the competition that determines circuit representative. The runner-up team from another circuit would then compete with the circuit representative in a playoff prior to the Regional Competition (see chart in 5.4).
   2. Or, when a circuit has less than four registered team, MYLAW may designate another circuit in which these teams will compete. Geographic location will be the primary factor in making this determination.
   3. Or, under the discretion of a circuit coordinator and MYLAW, if a circuit chooses, it may combine with the "un-official" circuit to increase the number of opportunities to compete.

b. When a "circuit opening" arises, it will be filled by a sequential rotation of circuits. The second-place team from the specified circuit will advance to the regional competitions to fill the opening. If the team is unable to advance, the opportunity will move to the next circuit, and so on, until the opening is filled. In the event that all circuits are officially comprised of a minimum of four teams, the designated circuit will remain the next in-line to advance in future years.

2019-2020	Circuit 1	2023-2024	Circuit 5
2020-2021	Circuit 2	2024-2025	Circuit 6
2021-2022	Circuit 3	2025-2026	Circuit 7
2022-2023	Circuit 4	2026-2027	Circuit 8

5.5. Circuit Competition. Each competing circuit shall declare one team as Circuit Champion by holding a local Mock Trial playoff competition. The Circuit Champion shall be declared by the date set forth in this casebook. It is at the discretion of the Circuit Coordinator(s) as to the process by which the champion is declared, particularly if there is more than one county in the circuit.

5.6. Rendered decisions. Attorneys and judges may preside over, and render decisions, for all matches. If possible, a judge from the Court of Appeals or Court of Special Appeals will preside over, and render a decision at the State Finals.

5.7. Dates for the Regional Competitions. Each Circuit Champion will compete against another Circuit Champion in a single competition, in order to determine which team advances to the Final Four.

5.8. Dates for MYLAW Final Competitions. Dates for the Regionals, Semi-Finals, and Final competitions will be set by MYLAW and notice will be given to all known participating high schools. Teams that enter into the current year's competition agree to participate on all scheduled dates of the competition as set forth in this casebook.

5.9. Declared winner of the Regional Competition must agree to participate on the scheduled dates for the remainder of the competition or be eliminated. Any team that is declared a Regional Representative must agree to participate on the dates set forth for the remainder of the competition. Failure to do so will result in the team's elimination from the competition and the first runner-up in that circuit will then be the Regional Representative under the stipulations.

6. JUDGING AND SCORING

6.1. Local judging/scoring. Judging and scoring is different from circuit to circuit. Typically, one attorney or judge presides over and scores the local competition.

6.2. Judging and scoring at the Regionals, Semi-Finals and Statewide Final Competitions are distinct from judging and scoring at some local competitions.

a. The judge presides, hears objections and motions, instructs counsel, and determines which team prevails based on the merits of the law.
b. Two attorneys independently score each teams performance at the trial, using the score sheet from the official Mock Trial Guide.
c. At the conclusion of the trial and while in chambers, the judge may award a tie point without informing the attorney scorers. The Tie Point is added to the final score only in the event of a tie score. Attorneys meet after the competition to work out any differences between their scoring sheets for the purpose to provide one score sheet to the judge, and the two teams.
d. The judge retains the right to overrule any score on the score sheet. Both teams shall receive a copy of this score sheet, signed by the judge. Teams will not have access to the original, independent score sheets of the attorneys.

6.2. All Judges' decisions are final. No appeal of a judge's decision in a case is allowed.

a. MYLAW retains the right to declare a mistrial when there has been gross transgression of the organizational rules and/or egregious attempt to undermine the intent and integrity of the Mock Trial Competition.
b. Upon the coaches' review of, and signature on the score sheet, the outcome is final.

7. DIRECTLY PROHIBITED

7.1. No coaching. There shall be no coaching of any kind during the enactment of a mock trial:

a. Student Attorneys may not coach their witnesses during the other team's cross examination;
b. Teacher and Attorney Coaches may not coach team members during any part of the competition;
c. Members of the audience, including members of the team who are not participating that particular day, may not coach team members who are competing;
d. Except for the express purpose of keeping time, team members must have their cell phones and all other electronic devices turned off during competition as texting may be construed as coaching.
e. Teacher and Attorney Coaches shall not sit directly behind their team during competition as any movements or conversations may be construed as coaching.

7.2. Notice of team demographic information is prohibited. Team members or other affiliated parties, shall not, before or during the trial, notify the judge of the students' ages, grades, school name or length of time the team has competed.

7.3. Attendance of an opponent's competition is prohibited. Members of a school team entered in the competition, including Teacher Coaches, back-up witnesses, attorneys, and any others directly associated with the team's preparation, shall not attend the enactments of any possible future opponent in the contest.

7.4. Use of Electronics. Except for the express purpose of keeping time, the use of electronics (phone, laptop, iPad, etc.) is completely prohibited.

8. General Trial Procedures

8.1 Time limits. Each team must complete its presentation within forty-two (42) minutes.

a. Each side has a combined total time of forty-two (42) minutes for direct examination, cross examination, re-cross/re-direct and voir dire (if permitted);
b. Opening statements and closing arguments are five (5) and seven (7) minutes respectfully and are not included in the forty-two (42) minutes permitted under 8.1a.
c. The "clock" will be stopped during objections (including any arguments related to those objections), bench conferences, the setting up of demonstrative exhibits prior to the examination of a witness (where such activity is permitted by the presiding judge) and court recesses;
d. There is no objection permitted by any party based on the expiration of time.

8.2 Use of a Bailiff. Each team is encouraged to have a non-competing Mock Trial team member to serve as a Bailiff during the course of each competition.

a. Each Bailiff will keep time for the opposing counsel. The two bailiffs will sit together in a place designated by the presiding judge separate from the contending teams. Bailiffs from the two teams will work together collaboratively to ensure the accuracy of their records;
b. In the event that only one team brings a Bailiff, that person shall keep time for both sides;
c. The Bailiff(s) will also announce the Judge, call the case, and swear in each witness;
d. While the use of a bailiff is discretionary (by circuit) during local competitions, it is mandated in state competitions.
e. Each Bailiff shall have two stopwatches, cellphones, or other timing devices. The second timepiece is intended to serve as a backup device. *Note - cellphones should be employed for the purposes of timekeeping only, with the expressed consent of courthouse officials.*
f. Each Bailiff shall have visual displays (e.g. cards or pieces of paper) of numbers counting down from 42 in 10-minute intervals, (for example, 40, 30, 20, 10, etc.). At the final 3-minute mark, the Bailiff will begin counting down on the minute (3, 2, 1, 0). As each interval elapses in a team's presentation, the Bailiff will quietly display to both teams and to the presiding judge, the time-card corresponding to the number of minutes remaining. When the number zero is displayed, the presiding judge will announce that the team's presentation is concluded. Teams may ask the presiding judge for courtesy time to complete a presentation, but the extension of courtesy time is intended to permit a team to complete a sentence or thought. It should not extend beyond 15 seconds.

8.3 Student Attorneys. The Student Attorney who directly examines a witness is the only attorney who may raise objections when that same witness is being cross-examined. The student attorney who raises objections on direct examination must be the same attorney who then cross-examines that same witness. This same principle applies if a Student Attorney calls for a bench conference; i.e., it must be the attorney currently addressing the Court. The student attorney who handles the opening statement may not perform the closing argument.

8.4 Evidentiary Materials. Any materials that have been modified for use during trial (e.g., enlarged), must be made available during the trial for the opposing team's use. During witness identification exchanges, please alert the other team if you plan to use modified materials.

9. Invention of Fact. This rule shall govern the testimony of all witnesses. Mock Trial competitors shall advocate as persuasively as possible based on the facts contained in the casebook. Teams must rely on the facts as stated in the case rather than creating new facts or denying existing facts in order to benefit their parties.

9.1. Judges' scoring. If a team demonstrates through impeachment that its opponent has made an Improper Invention, judges should reflect that violation in the scores by penalizing the violating team, rewarding the impeaching team, or both.

9.2. Improper Invention. There are two types of Improper Invention: 1) Any instance in which a witness introduces testimony that contradicts the witness's affidavit and/or 2) Any instance on direct or redirect in which an attorney offers, via the testimony of a witness, material facts not included in or reasonably inferred from the witness' affidavit.

> *Facts are material if they affect the merits of the case. Facts are not material if they serve only to provide background information or develop the character of a witness.*
>
> *A reasonable inference must be a conclusion that a reasonable person would draw from a particular fact or set of facts contained in the affidavit. An answer does not qualify as a "reasonable inference" just because it is consistent with the witness affidavit.*
>
> *For the purposes of Rule 9, an affidavit includes the witness's sworn statement, as well as any document in which the witness has stated his or her beliefs, knowledge, opinions or conclusions.*

9.3. Trial Remedy for Violations. If the cross-examining attorney believes the witness has made an Improper Invention, the only available remedy is to impeach the witness using the witness's affidavit. Impeachment may take the form of demonstrating either (1) an inconsistency between the witness's affidavit and trial testimony ("impeachment by contradiction") or (ii) that the witness introduced material facts on direct or redirect that are not stated in or reasonably inferred from the witness's affidavit (impeachment by omission"). The cross-examiner is not permitted to raise an objection to the judge on the basis of "invention of fact."

MARYLAND MOCK TRIAL PROCEDURES

The Mock Trial Competition is intended to be tried as a Bench trial; that is, a trial without a jury.

1. **Courtroom Set-Up.** Plaintiff/Prosecution will sit closest to the jury box and Defense will sit on the side of the courtroom that is farthest from the jury box. This is based on the premise that the defendant is innocent until proven guilty, and so is removed (as far as possible) from the scrutiny of the court. The Bailiff(s) will sit in either i) the jury box ii) the court reporter's seat or iii) in another seat so designated by the Judge, that is equally visible to both parties.

   When there is no jury box, the Defense typically sits on the left (facing the judge) and the Plaintiff sits on the right, although this may vary from one jurisdiction to another.

II. The Opening of the Court & Swearing of Witnesses. The Bailiff for the Prosecution/Plaintiff will call the Court to order through the following steps:

   a. In a loud voice, say, "All rise." (When the judge enters, all participants should remain standing until the Judge is seated.)
   b. The Bailiff should call the case; i.e., "The Court will now hear the case of **Wolfe v. Shepherd**." And announce the judge: "The Honorable _____ presiding."
   c. The Judge will permit those in the Court to be seated, and then ask the attorneys for each side if they are ready.
   d. During the course of the trial, the Bailiff for the Defense shall administer the Oath, and ask each witness to raise his or her right hand: *"Do you affirm to tell the truth, the whole truth, and nothing but the truth under the pains and penalties of perjury?"*

III. Opening Statements (5 minutes maximum)

   a. **When the judge takes the Bench and is presiding, the case is called for the record. Both sets of attorneys and the witnesses playing the part of the actual Plaintiff and Defendant should remain standing. One member from each attorney team will then state for whom they are there on behalf. This is typically done in this format: "Good afternoon, Your Honor. I am (Introduce yourself) from (applicable law firm: Wais, Vogelstein, Forman & Offutt or Plaxen & Adler) and I represent the (Plaintiff/Defendant)" and then state the name of your client. "With me are my Co-Counsels," and then introduce your two teammates.**
   b. Prosecution (criminal case)/ Plaintiff (civil case). After introducing oneself and one's colleagues to the Judge, the prosecutor or plaintiff's attorney summarizes the evidence for the Court which will be presented to prove the case. The Prosecution/ Plaintiff statement should include a description of the facts and circumstances surrounding the case, as well as a brief summary of the key facts that each witness will reveal during testimony. Avoid too much information during the Opening Statement. Avoid argument, as the statement is specifically to provide facts of the case from the client's perspective.
   c. Defense (criminal or civil case). After introducing oneself and one's colleagues to the Judge, the defendant's attorney summarizes the evidence for the Court which will be presented to rebut the case (or deny the validity of the case) which the plaintiff has made. It includes facts that tend to weaken the opposition's case, as well as key facts that each witness will reveal during testimony. Avoid repetition of facts that are not in dispute, as well as strong points of the plaintiff/ prosecution's case. As with the Plaintiff's statement, Defense should avoid argument at this time.

IV. Direct Examination by the Plaintiff/Prosecutor. The prosecutor/ plaintiff's attorney conducts direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence

to prove the prosecution's/plaintiff's case should be presented. The purpose of direct examination is to allow the witness to relate the facts to support the prosecution/plaintiff claim and meet the required burden. It also allows counsel for each side to establish the credibility of each of their witnesses. For example:

a. Ask open-ended questions, rather than those that draw a "yes" or "no" response. Questions that begin with "who," "what," "where," "when," and "how" or "explain…" and "describe…" are helpful during direct examination.
b. Questions should be clear and concise, and should help guide your witness through direct examination.
c. Witnesses should not narrate too long, as it will likely draw an objection from opposing counsel.
d. Do not ask questions that "suggest" a specific answer or response.

V. Cross-Examination by the Defense. After the attorney for the prosecution/plaintiff has completed the questioning of a witness, the Judge then allows the defense attorney to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of the opposing witness. Inconsistency in stories, bias, and other damaging facts may be pointed out to the Judge through cross-examination. General Suggestions:

a. Use narrow, leading questions that "suggest" an answer to the witness. Ask questions that require "yes" or "no" responses.
b. In general, it is never a good idea to ask questions to which you do not know the answer – unexpected responses can be costly and may leave you unprepared and off-guard.
c. Never ask "why." You do not want to give a well-prepared witness an opportunity to expand upon a response.
d. Avoid questions that begin with "Isn't it a fact that…", as it allows an opportunistic witness an opportunity to discredit you.

VI. Redirect Examination Redirect examination is an additional direct examination conducted following a witness' cross examination. The purpose is to allow the witness to clarify any testimony that was cast in doubt during cross examination. It is limited to the scope of the cross examination.

VII. Recross Examination. Recross examination is an additional cross examination, following a redirect. The purpose is to respond to matters that may have arisen during the re-examination of a witness. Recross can only deal with those subjects that were addressed during redirect.

VIII. Voir Dire. Pronounced "vwahr deer," and translated from French "to speak the truth" or "to see to speak." The phrase has two meanings, only one of which applies to Mock Trial. People are most commonly introduced to the term when they are called for jury duty. The judge and/or attorneys conduct voir dire to determine if any juror is biased and/or feels unable to deal with issues fairly. The voir dire that is applicable to mock trial is the process through which questions are asked to determine the competence of an alleged expert witness.

Before giving any expert opinion, the witness must be qualified by the court as an expert witness. The court must first determine whether or not the witness is qualified by knowledge, skills, experience, training or education to give the anticipated opinion. After the attorney who called the witness questions him/her about his/her qualifications to give the opinion, and before the court qualifies the witness as an expert witness, the opposing counsel shall, if he/she chooses to do so, have the opportunity to conduct a brief cross-examination of the witness' qualifications. Voir dire is to be limited to the fair scope of the expert's report.

IX. How to Admit Evidence

a. Premark the exhibit.
b. Show it to opposing counsel.
c. Request permission from the judge to approach the witness.
d. Show it to the witness.
e. Ask the right questions to establish a foundation:
a. I am handing you what has been marked as Exhibit X. Do you recognize this?
b. What is it?
c. Is it a fair and accurate copy?
f. Ask the court to admit the evidence.
g. Hand it to the judge (or clerk) to mark the exhibit into evidence.

X. How to Impeach a Witness. Counsel can challenge the credibility of opposing witnesses by showing the judge or jury that the witness made inconsistent statement in the past and/or by demonstrating a witness is biased or has personal interest.

a. Get the witness to repeat the wrong statement. Ask, "Is it your testimony that [insert exact quote of oral testimony if possible?]"
b. Get the affidavit of the witness.
c. Ask permission to approach the witness.
d. Ask,
    i. "Do you remember making this statement?"
    ii. "And you were under oath?"
    iii. "This is your deposition, correct?"
    iv. "And this is your signature?"
    v. "Now read silently as I read aloud."
    vi. "I read that correctly, didn't I?"
e. The purpose is to emphasize the disparity between the witness' current testimony and prior statement; the goal being to point out that the witness has changed their answer, *not* to give them a chance to affirm the truth of their most recent statement.

XI. Closing Arguments (7 minutes)

For the purposes of the Mock Trial Competition, the first closing argument at all trials shall be that of the Defense.

1. Defense/Defendant: A closing argument is a review of the evidence presented. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not substantiate the elements of a charge or claim, stresses the facts and law favorable to the defense, and asks for a finding of not guilty (or not at fault) for the defense.
2. Prosecution/ Plaintiff: The closing argument for the prosecution/plaintiff reviews the evidence presented. The prosecution's/plaintiff's closing argument should indicate how the evidence has satisfied the elements of a charge, point out the law applicable to the case, and ask for a finding of guilt, or fault on the part of the defense. Because the burden of proof rests with the prosecution/plaintiff, this side has the final word.

XII. The Judge's Role and Decision. The Judge is the person who presides over the trial to ensure that the parties' rights are protected and that the attorneys follow the rules of evidence and trial procedure. In mock trials, the Judge also has the function of determining the facts of the case and rendering a judgment, just as in actual Bench trials.

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BALTIMORE COUNTY BAR ASSOCIATION

Law Day 2020 Essay Contest

Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100

The Law Day 2020 theme is "Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100." In 2019-2020, the United States is commemorating the centennial of the transformative constitutional amendment that guaranteed the right of citizens to vote would not be denied or abridged by the United States or any state on account of sex. American women fought for, and won, the vote through their voice and action.

The women's suffrage movement forever changed America, expanding representative democracy and inspiring other popular movements for constitutional change and reform. Yet, honest reflection on the suffrage movement reveals complexity and tensions over race and class that remain part of the ongoing story of the Nineteenth Amendment and its legacies.

Prizes

1st Prize $250.00

2nd Prize $125.00

3rd Prize $ 50.00

Contact Rachel Ruocco, Executive Director at rruocco@bcba.org for complete contest rules.

RULES OF EVIDENCE
INTRODUCTION

In American trials, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). Rules of Evidence are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge.

1. Judge decides whether a rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the attorneys to know the rules, to be able to use them to present the best possible case, and to limit the actions of opposing counsel and their witnesses.
2. Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this Mock Trial Competition, the rules of evidence have been modified and simplified. Not all judges will interpret the rules of evidence or procedure the same way, and you must be prepared to point out the specific rule (quoting it, if necessary) and to argue persuasively for the interpretation and application of the rule you think proper. No matter which way the judge rules, attorneys should accept the ruling with grace and courtesy.

ARTICLE I. GENERAL PROVISIONS

Rule 101: Scope. These rules govern all proceedings in the mock trial competition. The only rules of evidence in the competition are those included in these rules.

Rule 102: Purpose and Construction. These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and ascertain the truth and secure a just determination.

ARTICLE IV. RELEVANCE AND ITS LIMITS

Rule 401: Test for Relevant Evidence

Evidence is relevant if:

(a) It has any tendency to make a fact more or less probable than it would be without the evidence; and
(b) The fact is of consequence in determining the action

Rule 403: Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons.

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 404: Character Evidence; Crimes or Other Acts.

(a) Character Evidence:
   (1) Prohibited Uses: Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

That is to say, mention of a person's typical behavior is not admissible when trying to prove that the person behaved in a way that matches the behavior discussed in the current case.

(b) Crimes, Wrongs, or Other Acts.

(1) *Prohibited Uses*. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses*. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Rule 405. Methods of Proving Character

(a) By Reputation or Opinion. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow inquiry into relevant specific instances of the person's conduct.

(b) By Specific Instances of Conduct. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

The general rule is that Character Evidence is not admissible to prove conduct in a civil case. Character evidence is admissible in a civil case if a trait of character has been placed in issue by the pleadings and character is a material issue. Character is a material issue in a civil defamation case when the defamatory statement falsely accuses the plaintiff of a general flaw, but not at issue if the defamatory statement falsely accuses the plaintiff of a specific act. For example, character is a material issue when accusing a plaintiff of being a liar, but not at issue if the defamatory statement falsely accuses the plaintiff of a specific act, for example, accuses the plaintiff lying about a specific event.

ARTICLE VI. WITNESSES/ WITNESS EXAMINATION

Rule 601. Competency to Testify in General. Every person is competent to be a witness unless these rules provide otherwise.

Rule 602. Need for Personal Knowledge. A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703.

Rule 603. Oath or Affirmation to Testify Truthfully.

Before testifying, every witness is required to declare that the witness will testify truthfully, by oath provided in these materials. The bailiff shall swear in all witnesses as they take the stand:

Do you promise to tell the truth, the whole truth, and nothing but the truth, under the pains and penalties of perjury?

Rule 607. Who May Impeach a Witness. Any party, including the party that called the witness, may attack the witness's credibility.

Rule 608. A Witness' Character for Truthfulness or Untruthfulness.

(a) Reputation or Opinion Evidence**.** A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by

testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

(b) Specific Instances of Conduct. Extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:
   (1) the witness; or
   (2) another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rules 609. Impeachment by evidence of conviction of crime.

(a) Generally. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established by public record during examination of the witness, but only if (1) the crime was an infamous crime or other crime relevant to the witness's credibility and (2) the court determines that the probative value of admitting this evidence outweighs the danger of unfair prejudice to the witness or the objecting party.

(b) Time limit. Evidence of a conviction is not admissible under this Rule if a period of more than 15 years has elapsed since the date of the conviction, except as to a conviction for perjury for which no time limit applies.

Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence.

(a) Scope of Cross-Examination. The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

Cross examination is the questioning of a witness by an attorney from the opposing side. An attorney may ask leading questions when cross-examining the opponent's witnesses.
In Mock Trial, attorneys are allowed to ask any questions on cross examination about any matters that are relevant to the case. Witnesses must be called by their own team and may not be recalled by either side. All questioning of a witness must be done by both sides in a single appearance on the witness stand.

(b) Leading Questions. Leading questions should not be used on direct examination. Ordinarily, the court should allow leading questions:
   (1) on cross-examination; and
   (2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Scope of Direct Examination: Direct questions shall be phrased to elicit facts from the witness. Witnesses may not be asked leading questions by the attorney who calls them for direct. A leading question is one that suggests the answer that is anticipated or desired by counsel; it often suggests a "yes" or "no" answer.
Example of Leading Question: "Mr/s. Smith: "Is it not true that you made several stops after work before returning home?"
Example of a Direct Question: Mr/s. Smith: "Did you do anything after work, before returning home?

(c) Redirect/Recross. After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.
(d) Permitted Motions. The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

Rule 612. Writing Used to Refresh a Witness's Memory. If a witness is unable to recall a statement made in an affidavit, the attorney on direct may show that portion of the affidavit that will help the witness to remember.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

RULE 701: Opinion Testimony by Lay Witnesses. If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:
(a) rationally based on the witness's perception;
(b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
(c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Expert Witnesses. A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:
(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
(b) the testimony is based on sufficient facts or data;
(c) the testimony is the product of reliable principles and methods; and
(d) the expert has reliably applied the principles and methods to the facts of the case.

A witness cannot give expert opinions under Rule 702 until they have been offered as an expert by the examining lawyer and recognized as such by the court. To have an expert witness admitted by the court, first ask the witness to testify as to their qualifications: education, experience, skills sets, etc. Then, ask the presiding judge to qualify the witness as an expert in the field of ____. The presiding judge then asks opposing counsel if they wish to Voir Dire the witness.

Voir dire is the process through which expert witnesses are questioned about their backgrounds and qualifications before being allowed to present their opinion testimony or testimony on a given subject, in court. After an attorney who has called a witness questions them about their qualifications, and before

the court qualifies the witness as an expert, the opposing counsel shall have the opportunity to conduct voir dire.

Once voir dire is completed, opposing counsel may 1) make an objection as to their being qualified as an expert, 2) request that the court limit their expert testimony to a more specific matter or subject, or 3) make no objection about the witness being qualified as an expert. The presiding judge will them make a ruling regarding the witness being qualified as an expert.

Rule 703. Bases of an Expert. An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, the need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 705. Disclosing the Facts or Data Underlying an Expert. Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

ARTICLE VIII. HEARSAY

RULE 801: Definitions That Apply to This Article; Exclusions from Hearsay.

The following definitions apply under this article:

(a) Statement. "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) Declarant. "Declarant" means the person who made the statement.

(c) Hearsay. "Hearsay" means a statement that:
(1) the declarant does not make while testifying at the current trial or hearing; and
(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

(d) Statements That Are Not Hearsay. A statement that meets the following conditions is not hearsay:
(1) *A Declarant-Witness's Prior Statement.* The declarant testifies and is subject to cross-examination about a prior statement, and the statement:
(A) is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;
(B) is consistent with the declarant's testimony and is offered:
(i) to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or
(ii) to rehabilitate the declarant's credibility as a witness when attacked on another ground; or
(C) identifies a person as someone the declarant perceived earlier.

(2) *An Opposing Party's Statement*. The statement is offered against an opposing party and:
(A) was made by the party in an individual or representative capacity;
(B) is one the party manifested that it adopted or believed to be true;
(C) was made by a person whom the party authorized to make a statement on the subject;
(D) was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or
(E) was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

Hearsay generally has a three-step analysis:
1) Is it an out of court statement?
2) If yes, is it offered to prove the truth of what it asserts?
3) If yes, is there an exception that allows the out-of-court statement to be admitted despite the fact that it is hearsay?

RULE 802: The Rule Against Hearsay. Hearsay is a statement, other than one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted made outside of the courtroom. Statements made outside the courtroom are usually not allowed as evidence if they are offered in court to show that the statements are true. The most common hearsay problem occurs when a witness is asked to repeat what they or another person stated. For the purposes of the Mock Trial Competition, if a document is stipulated, you may not raise a hearsay objection to it.

RULE 803: Exceptions to the Rule Against Hearsay.
The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(a) Present Sense Impression. A statement describing or explaining an event of condition, made while or immediately after the declarant perceived it.
(b) Excited Utterance. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.
(c) Then-Existing Mental, Emotional or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.
(d) Business Records. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by or from information transmitted by a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of the information or the method of circumstances of preparation indicate lack of trustworthiness, shall be admissible. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and callings of every kind, whether or not conducted for profit.
(e) Public Records. A record or statement of a public office if:
    (1) It sets out:
        (A) The office's activities
        (B) A matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law enforcement personnel; or
        (C) In a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
    (2) The opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.

Rule 805. Hearsay within Hearsay
Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statement confirms with an exception to the rule.

Rule 807. Residual Exception Residual Exception. A hearsay statement does not fall under the other exceptions to Rule 803, but:

(a) The statement has equivalent circumstantial guarantees of trustworthiness; and
(b) It is offered as evidence of a material fact; and
(c) It is more probative on the point for which it is offered than any other evidence the proponent can obtain through reasonable efforts; and
(d) Admitting it will best serve the purpose of these rules and the interests of justice.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION
Rule 901. Physical Evidence. Physical evidence may be introduced only if it is contained within the casebook and relevant to the case. Physical evidence will not be admitted into evidence until it has been identified and shown to be authentic or its identification and/or authenticity has been stipulated. That a document is "authentic" means only that it is what it appears to be, not that the statements in the document are necessarily true.

MOCK TRIAL OBJECTIONS

Objection	Rule	Description
Relevance	401	Evidence is irrelevant if it does not make a fact that a party if trying to prove as part of the claim or defense more or less probable than it would be without the evidence.
More prejudicial than probative	403	A court may exclude relevant evidence if its probative value is substantially outweighed by unfair prejudice. By its nature, all relevant evidence is prejudicial to one side. This rule generally applies to evidence that not only hurts your case but is not relevant enough to be let in.
Improper character evidence	404; 608	A number of rules govern whether it is appropriate to introduce affirmative or rebuttal evidence about the character of a witness and the notice required to introduce such evidence. This objection is made when improper character evidence has been given as testimony in court. *Example: "The defendant has always been very rude to me, and was particularly rude on the day of the incident."*
Lack of personal knowledge/ speculation	602	A witness may only testify to a fact after foundation has been laid that the witness has personal knowledge of that fact through observation or experience. Many teams refer to testifying to an assumption or fact without personal knowledge as "speculation." Whenever proper foundation has not been laid under this rule or others for testimony, "lack of foundation" is also a proper objection. Speculation, or someone's idea about what might have occurred, is generally not permitted. A witness may not jump to conclusions that are not based on actual experiences or observations, as this is of little probative value. Some leeway is allowed for the witness to use their own words, and greater freedom is generally allowed with expert witnesses.
Beyond the scope	611	In Maryland mock trial, the initial cross examination is not restricted to the content of the direct examination. All subsequent examinations (beginning with redirect) must be within the scope of the prior examination.
Form of question - leading	611	This objection is made when counsel starts arguing with the witness, badgering a witness, or becoming overly aggressive. This objection is made by an attorney to protect a witness during cross examination.
Form of question - compound	611	This objection is made when counsel asks a compound question. A compound question asks multiple things.

Form of question - narration	611	This objection is made when either a witness begins telling a narrative as part of their answer, or counsel's question calls for a narrative. It is admissible for a witness to testify about what happened, but they must do so in response to a question. This objection prevents long winded witness answers.
Form of question - argumentative	611	This objection is made when counsel starts arguing with the witness, badgering a witness, or becoming overly aggressive. This objection is made by an attorney to protect a witness during cross examination.
Unresponsive	611	This objection is made when a witness does not answer the question being asked by the attorney. This objection can help an attorney corral the witness and get a straight answer to questions the witness may be trying to avoid. Be careful to avoid making this objection when the witness simply gives a different answer than what was expected or desired.
Asked and answered	611	This objection is made when counsel has asked a question and received an answer, and asks the same question again. If an answer is given, a new question must be asked. Counsel can ask a question multiple times if the witness is not giving a full answer, is being uncooperative or unresponsive.
Hearsay	801-802	An out-of-court statement (including a statement by the witness on the stand) may not be used to prove the truth of the matter asserted. That said, there are many exceptions to the hearsay rule.
Hearsay exceptions	803	Provides for exceptions to the hearsay rule in instances when the evidence is technically hearsay, but circumstances would suggest that it will be reliable.
Lacks foundation	602	This objection is made when counsel asks a question without first establishing that the witness has a basis to answer it. This most frequently occurs when the examining attorney is going too quickly and not asking preliminary questions that demonstrate the witness' familiarity with the facts.

Please note: **Invention of Fact** has been removed as both a Rule of Evidence and an Objection. The thinking behind this is as follows: even if a witness tells a falsehood on the stand, it will be better to take up the issue on cross examination, and impeach the witness through the use of their own witness statement. The effect is two-fold: 1) the witness is shown to have lied, and 2) the judge/jury will see the greater skill of the crossing attorney.

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Good luck to all teams!

JORDAN WOLFE	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
DREW SHEPHERD	*	CHESAPEAKE COUNTY
Defendant	*	

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

COMPLAINT

Jordan Wolfe (hereinafter "Wolfe"), Plaintiff, by zir attorneys, Plaxen & Adler, P.A., sues Drew Shepherd (hereinafter "Shepherd"), Defendant, and states:

1. Plaintiff Wolfe is a resident of Chesapeake County, Maryland.
2. Defendant Shepherd is a resident of Chesapeake County, Maryland.
3. Plaintiff Wolfe is a police officer with the Chesapeake County Police Department.
4. On or about September 2, 2019, in an effort to subvert Plaintiff Wolfe's career and reputation, Defendant Shepherd made statements to a reporter from Channel 04 Bay Retriever News claiming that Plaintiff Wolfe was motivated by revenge and arrested Defendant Shepherd without probable cause. These statements were defamatory in tending to injure Plaintiff in zis profession and employment, and further, in impugning zim to be dishonest.
5. In Defendant Shepherd's statement to Channel 04 Bay Retriever News, Defendant Shepherd knowingly made the aforementioned false and defamatory statements about Plaintiff Wolfe.
6. Defendant Shepherd acted with knowledge of the falsity of the statements and with the intent to harm Plaintiff Wolfe's career and reputation when publishing these false and defamatory statements about Plaintiff Wolfe.
7. As a result of the false and defamatory statements published by Defendant Shepherd, the character and reputation of Plaintiff Wolfe were harmed, Plaintiff Wolfe's standing and reputation at the Chesapeake Police Department and in the community were impaired, and Plaintiff Wolfe suffered mental anguish and personal humiliation.
8. As a direct and proximate result of the false and defamatory statements published by Defendant Shepherd, Plaintiff Wolfe was reprimanded by zis employment, and thereby suffered a loss of income that Plaintiff Wolfe would have earned from Plaintiff Wolfe's salary.

WHEREFORE, Plaintiff demands One Hundred Thousand Dollars ($100,000.00) in compensatory damages and Three Hundred Thousand Dollars ($300,000.00) in punitive damages, plus interest and costs.

Respectfully submitted,

/s/
PLAXEN & ADLER, P.A.
10211 Wincopin Circle, Suite 620
Columbia, Maryland 21044
(410) 730-7737
www.plaxenadler.com
Counsel for Plaintiff

JORDAN WOLFE	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
DREW SHEPHERD	*	CHESAPEAKE COUNTY
Defendant	*	

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

ANSWER TO COMPLAINT

The Defendant, Drew Shepherd, by zir attorneys, Wais, Vogelstein, Forman & Offutt, LLC, answers the Plaintiff's Complaint and states:

1. Plaintiff Wolfe is a resident of Chesapeake County, Maryland.
   a) Defendant's response: **admitted.**
2. Defendant Shepherd is a resident of Chesapeake County, Maryland.
   a) Defendant's response: **admitted.**
3. Plaintiff Wolfe is a police officer with the Chesapeake County Police Department.
   a) Defendant's response: **admitted.**
4. On or about September 2, 2019, in an effort to subvert Plaintiff Wolfe's career and reputation, Defendant Shepherd made statements to a reporter from Channel 04 Bay Retriever News claiming that Plaintiff Wolfe was motivated by revenge and arrested Defendant Shepherd without probable cause. These statements were defamatory in tending to injure Plaintiff in zis profession and employment, and further, in impugning zim to be dishonest.
   a) Defendant's response: **denied.**
5. In Defendant Shepherd's statement to Channel 04 Bay Retriever News, Defendant Shepherd knowingly made the aforementioned false and defamatory statements about Plaintiff Wolfe.
   a) Defendant's response: **denied.**
6. Defendant Shepherd acted with knowledge of the falsity of the statements and with the intent to harm Plaintiff Wolfe's career and reputation when publishing these false and defamatory statements about Plaintiff Wolfe.
   a) Defendant's response: **denied.**
7. As a result of the false and defamatory statements published by Defendant Shepherd, the character and reputation of Plaintiff Wolfe were harmed, Plaintiff Wolfe's standing and reputation at the Chesapeake Police Department and in the community were impaired, and Plaintiff Wolfe suffered mental anguish and personal humiliation.
   a) Defendant's response: **denied.**
8. As a direct and proximate result of the false and defamatory statements published by Defendant Shepherd, Plaintiff Wolfe was suspended from zis employment without pay, and thereby suffered a loss of income that Plaintiff Wolfe would have earned from Plaintiff's salary.
   a) Defendant's response: **denied.**

WHEREFORE, the Complaint having fully been answered, the Defendant respectfully requests that it be dismissed with prejudice.

Respectfully submitted,

/s/
WAIS, VOGELSTEIN, FORMAN & OFFUTT, LLC
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Baltimore, MD 21208
(410) 998-3600
www.malpracticeteam.com
Attorneys for Defendant

JORDAN WOLFE	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
DREW SHEPHERD	*	CHESAPEAKE COUNTY
Defendant	*	

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

COUNTER-CLAIM

Drew Shepherd (hereinafter "Shepherd"), Defendant/Counter-Plaintiff, by zir attorneys, Wais, Vogelstein, Forman & Offutt, LLC, sues Jordan Wolfe (hereinafter "Wolfe"), Plaintiff/Counter-Defendant, and states:

1. Defendant/Counter-Plaintiff Shepherd is a resident of Chesapeake County, Maryland.
2. Plaintiff/Counter-Defendant Wolfe is an officer with the Chesapeake County Police Department and is a resident of Chesapeake County, Maryland.
3. On or about September 2, 2019, Wolfe recovered less than 10 grams of marijuana from the front half of a car belonging to the parents of Shepherd.
4. On or about September 2, 2019, Wolfe also discovered in the backseat area of Shepherd's parent's car more than 10 grams of marijuana inside a purse that Wolfe knew belonged to someone other than Shepherd.
5. On or about September 2, 2019, Wolfe arrested Shepherd for possession of more than 10 grams of marijuana. Wolfe handcuffed Shepherd and transported Shepherd to Chesapeake County Central Booking.
6. Wolfe filed an Application for Charges and Statement of Probable Cause, which was denied by the Commissioner for Chesapeake County. The Commissioner determined that probable cause did not exist based on the statement submitted by Wolfe.
7. Wolfe had no rational reason to believe that Shepherd possessed the marijuana recovered from the vehicle.
8. Wolfe's arrest was made without a warrant and demonstrated ill will, improper motivation or evil purpose.
9. The fact that Shepherd had some alleged association to the vehicle where marijuana was recovered did not constitute probable cause needed to make a warrantless arrest.
10. As a result of Wolfe's conduct and actions, Shepherd has suffered, and will continue to suffer, severe mental anguish, medical and other related expenses, and loss of income.

WHEREFORE, Defendant/Counter-Plaintiff Shepherd demands judgment against Plaintiff/Counter-Defendant Wolfe in the amount of Fifty Thousand Dollars ($50,000.00) in compensatory damages and One Hundred Fifty Thousand Dollars ($150,000.00) in punitive damages, plus interest and costs.

Respectfully submitted,

/s/

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Attorneys for Defendant/Counter-Plaintiff

JORDAN WOLFE	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
DREW SHEPHERD	*	CHESAPEAKE COUNTY
Defendant	*	

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

ANSWER TO COUNTER-CLAIM

The Plaintiff/Counter-Defendant, Jordan Wolfe, by zir attorneys, Plaxen & Adler, P.A., answers the Defendant/Counter-Plaintiff's complaint and states:

1. Defendant/Counter-Plaintiff Shepherd is a resident of Chesapeake County, Maryland.
   a) Plaintiff/Counter-Defendant's response: **admitted.**
2. Plaintiff/Counter-Defendant Wolfe is an officer with the Chesapeake County Police Department and is a resident of Chesapeake County, Maryland.
   a) Plaintiff/Counter-Defendant's response: **admitted.**
3. On or about September 2, 2019, Wolfe recovered less than 10 grams of marijuana from the front half of a car belonging to the parents of Shepherd.
   a) Plaintiff/Counter-Defendant's response: **admitted.**
4. On or about September 2, 2019, Wolfe also discovered in the backseat area of Shepherd's parent's car more than 10 grams of marijuana inside a purse that Wolfe knew belonged to someone other than Shepherd.
   a) Plaintiff/Counter-Defendant's response: **denied.**
5. On or about September 2, 2019, Wolfe arrested Shepherd for possession of more than 10 grams of marijuana. Wolfe handcuffed Shepherd and transported Shepherd to Chesapeake County Central Booking.
   a) Plaintiff/Counter-Defendant's response: **denied.**
6. Wolfe filed an Application for Charges and Statement of Probable Cause, which was denied by the Commissioner for Chesapeake County. The Commissioner determined that probable cause did not exist based on the statement submitted by Wolfe.
   a) Plaintiff/Counter-Defendant's response: **admitted.**
7. Wolfe had no rational reason to believe that Shepherd possessed the marijuana recovered from the vehicle.
   a) Plaintiff/Counter-Defendant's response: **denied.**
8. Wolfe's arrest was made without a warrant and demonstrated ill will, improper motivation or evil purpose.
   a) Plaintiff/Counter-Defendant's response: **denied.**
9. The fact that Shepherd had some alleged association to the vehicle where marijuana was recovered did not constitute probable cause needed to make a warrantless arrest.
   a) Plaintiff/Counter-Defendant's response: **denied.**
10. As a result of Wolfe's conduct and actions, Shepherd has suffered, and will continue to suffer, severe mental anguish, medical and other related expenses, and loss of income.
    a) Plaintiff/Counter-Defendant's response: **denied.**

WHEREFORE, the Counter-Claim having fully been answered, the Plaintiff/Counter-Defendant respectfully requests that it be dismissed with prejudice.

Respectfully submitted,

/s/

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Counsel for Plaintiff/Counter-Defendant

STIPULATIONS

Stipulated Rule

For the purposes of Rule 5-609(a)(1), theft qualifies as a crime relevant to a witness's credibility.

Witnesses

1. Both the Plaintiff and the Defendant have noted properly in advance of trial their intention to call their respective witnesses, Major Fabian Aesop and Alex Masterson, as experts in "Police Practices." It will still be the responsibility of each side to go through the procedure of admitting their respective witnesses as experts for this purpose, if they so choose to attempt to do. If they do attempt to admit their witness as an expert, the opposing party has the right to voir dire, if they choose, and argue if this witness should be admitted as an expert. If a presiding judge rules that any witness is an expert, it will also be up to that presiding judge to determine what "Police Practices" includes, whether it is a broad term applying to all Police Practices or does it apply to more specific areas like Probable Cause determinations, general procedures and rules, drug identification and/or enforcement procedures, etc. This rule in no way prevents both parties in advance of trial from choosing to stipulate to the expertise of certain witnesses. If both parties agree to stipulate to a witness' expertise, they should notify the presiding judge any time prior to that witness testifying and as to what specifically the stipulation is.

2. Witnesses must acknowledge authorship of any document that purports to be authored by them and the authenticity of any signature that purports to be theirs.

Evidence

1. The Civil Citation and Statement of Probable Cause that are in the Evidence section of this problem have certain sections that were intentionally left blank by the writers of this problem. Specifically, the Defendant's address, Defendant's phone number, and Defendant's Description were left blank. This is not an issue for this trial as the writers of this problem wanted to keep these sections neutral. Neither party may make an argument that Officer Wolfe failed to complete these sections in particular. Any other portion of these documents can be litigated however the parties see fit.

2. Both parties stipulate that the print version of the Channel 4 Bay Retriever News article that is provided in the Evidence section of this problem is also an exact transcript of what was played on television as part of the Channel 4 Bay Retriever News broadcast on September 2, 2019 during the 11:00 p.m. broadcast and again on September 3, 2019 during the 5:00 a.m., 6:00 a.m. and 12:00 p.m. broadcasts and that it was in fact broadcasted on that channel as part of that newscast during those times.

3. All documents contained in these materials are authentic, and parties have waived all objections to authenticity for the materials contained in the case packet.

Affidavit of Officer Jordan Wolfe, Plaintiff

1. I am 22 years old and I am a resident of Chesapeake County.
2. I have been an officer with the Chesapeake County Police Department (CCPD) for one year.
3. I attended the Chesapeake County Police Academy and signed all General Orders acknowledging my training before graduating and becoming a fully licensed police officer.
4. I am currently assigned as a Patrol Officer for the CCPD.
5. September 2, 2019 was Labor Day, a national holiday.
6. On September 2, 2019, I was assigned to patrol the area of The Pleasant Seas Dock Pavilion (aka Pleasant Seas). Pleasant Seas is a popular large concert venue located within Chesapeake County. It has a seating capacity somewhere in the neighborhood of 10,000 seats. Pleasant Seas has its own parking lots but its most popular shows can stretch Pleasant Seas' parking facilities. When patrons do not follow the recommended carpool instructions for the more popular shows, patrons know there are business parks in the area that make their parking available to the general public on holidays and weekends.
7. I was assigned to patrol the surrounding areas of Pleasant Seas because it was known in advance that a large event was booked for that night. A band by the name of Dolfin was booked to perform at this venue.
8. I feel I'm only being slightly sarcastic when I say that every Chesapeake County officer, State's Attorney and Judge marks their calendars when Dolfin comes to town. Dolfin is a band that has a loyal following of fans. Many of their fans will follow them from show to show around the country on their tour. It is also known that Dolfin attracts a fan base that indulges in drug behavior. Drug dealers are attracted to these shows bringing an even more negative element into our county and turning the surrounding community into a high crime area for hours prior to the show until several hours after the show. Literally, we police the parking area prior to Dolfin performances as if it is a high drug trafficking area. After the show, we are on high alert for Driving Under the Influence of Alcohol and/or Drugs.
9. While Pleasant Seas employs its own security team on its own property, I was assigned to patrol the surrounding areas to be on the lookout and suppress drug dealing and drug possession behavior.
10. While all drugs are of a big concern, I may be a bit old fashioned but one drug that I still believe in being on the lookout for is Marijuana. I know there have been laws that decriminalize possession of marijuana under 10 grams but I don't understand how the legislature could let that law pass. Besides, decriminalize doesn't mean it is legal either.
11. While patrolling the neighborhoods around Pleasant Seas, I came across a large business park with hundreds of cars parked in the lot. This was around 6:00 p.m.. I know this area because of my patrol work, and that prior to popular concerts, attendees will hang out here to host parties called "tailgates." Many of the parties will have food and drink. For events like the one going on that night, tailgates also frequently have alcohol and illegal narcotics activity.
12. That night, I drove into this business park, parked near the entrance, got out of my patrol vehicle, and began a patrol on foot through this particular business park's parking lot and was on lookout for drug behavior. A couple hundred cars were parked there and probably a thousand people, plus or minus a hundred or so, were tailgating there too at that time.
13. While on foot patrol, my attention was drawn to one tailgate in particular. I noticed Drew Shepherd and Marley Lamb were present at this tailgate. I happen to know these two individuals because we were classmates back in high school. Drew and I used to be friends, but our friendship ended. We just sort of grew into different friends' groups. It was no big deal. After we grew apart, I remember hearing that Drew became someone that had a reputation for cheating on tests and never getting caught. That's what I heard. Never personally saw it but everyone talked about it. I will say that it always burned me up that someone would lie so often, and people kept giving that person second chances. Drew was definitely someone that I never believed could be trusted to do anything that Drew said Drew would do.

14. I left out of the police report that I recognized a faint odor of marijuana on Drew's person. I realized this after I saw the TV News report about Drew's arrest. Not sure how that got left out in the first place. I know it is important to include all evidence that is legally relevant in those police reports. Leaving that out of the police report was just an accident. But I definitely smelled the odor of marijuana on Drew that day.
15. Other than the odor I detected on Drew, my police report contains my full investigation and findings, and the reasons for the decision I made.
16. I decided to arrest Drew, instead of issuing a criminal citation after I searched Drew because I felt I had probable cause to believe Drew possessed more than 10 grams of marijuana.
17. Both before and after I searched Drew, I did not fear for my safety.
18. I placed Drew under arrest and attempted to book and charge Drew at Central Booking with Possession of Marijuana over 10 grams.
19. When I arrived at Central Booking, I filed an Application for Charges and Statement of Probable Cause. The Commissioner decided, for reasons I do not know, that there was not probable cause to charge Drew with Possession of more than 10 grams of Marijuana.
20. I returned Drew back to Drew's car at the business park. It was around 10 p.m. Before Drew left my side, I handed Drew the Civil Citation for the Marijuana flakes that I found in the front seat area of Drew's car. After Drew received the Citation, I told Drew to be safe on the roads while on Drew's way home.
21. The next day, I saw the news story on the Channel 04 Bay Retriever News saying that I had lied and made up charges against Drew Shepherd.
22. The next thing I know, I'm getting called in by my Sergeant and asked if the Channel 04 Bay Retriever News report was true. I insisted it wasn't and showed my Sergeant all of my paperwork that I had filled out to document what I had done that evening.
23. I was being considered at that time for a step-increase in pay which comes after an officer's first year of service on the police force. Decisions about the next round of step-increases were due out on September 16, 2019. I was told that any consideration for such a raise would have to wait until the next round of reviews in 12 months. I was told this was necessary to give time to my superiors to figure out what if anything happened.
24. If I had been given this raise, I would have received a $30,000.00 annual raise and been in line for further promotions.
25. Ultimately, my department did not suspend me for anything that happened that night. I just received a reprimand for not filling out all of my paperwork properly. I probably shouldn't say "just" a reprimand though because if I were to ever do anything wrong on the job in the future, CCPD can take this reprimand into consideration for whether or not I should receive stiffer consequences in the future.
26. Additionally, I've noticed a lot of other officers don't want to work with me now because they think I could be trouble and affect their careers too. My fellow officers have given me the nickname Officer Revenge. Do you know what it's like to be an officer on your own? I don't feel safe anymore because I don't know if my fellow patrolmen will come to my aid if anything serious happens while I'm out on patrol. This has caused me a lot of stress and I have started regularly seeing a therapist because of it.

Jordan Wolfe
Officer Jordan Wolfe

Affidavit of Major Fabian Aesop, Witness for the Plaintiff

1. I am a resident of Chesapeake County.
2. I am 50 years old and a 27-year veteran of the Chesapeake County Police Department (CCPD).
3. My current rank with CCPD is Major.
4. I was the Major assigned to the Chesapeake County Police Department's Police Academy when Officer Jordan Wolfe was becoming an officer. I have been at this assignment for the last 10 years. I have probably supervised the training of over 50% of CCPD's current police force.
5. Part of my responsibilities at the Academy are to ensure that each Cadet and Trainee is fit, both mentally and physically to serve as a Police Officer in our community. Additionally, it is my responsibility to ensure that each officer that graduates from our Academy understands all of the General Orders. My office also ensures that each officer in the Chesapeake County Police Department receives supplemental training if the General Orders are ever updated. Supplemental trainings are done through in-service trainings and every officer must complete these supplemental trainings once per year.
6. Police work is a very demanding profession. We try to groom officers who know that their roles are to protect and serve in the community.
7. I know that some people have a belief that police look out for their own. That is not how I conduct myself. The only way to build trust in a police department is to expect the very best on your staff.
8. I am not compensated in any way for my testimony.
9. My office maintains the records of what Orders each officer is trained on. I am the Custodian of those Records. In addition to this Affidavit, I am providing a letter that certifies that I am the Custodian of Records in my office, which includes Officer Wolfe's signed receipt of the General Orders, including Policies 808, 809, and 1112. These records were signed and dated by Officer Wolfe, when Officer Wolfe was in our Academy, as an acknowledgement that Officer Wolfe had read and understood our policies of how we expected Officer Wolfe to carry out the requirements of the job of being an officer with the Chesapeake County Police Department. It is within my regular conducted business to keep these records.
10. I have reviewed Officer Wolfe's investigation and charging of Drew Shepherd.
11. First, I can attest that Officer Wolfe was trained on all of the General Orders prior to graduating from the Chesapeake County Police Department Academy.
12. Officer Wolfe did not follow all of the procedures that were set out in General Orders 808, 809, and 1112. For example, according to the Rules and Procedures set out by CCPD, Officer Wolfe failed to complete an Incident Report. Additionally, as this was a citation-eligible offense, ze failed to articulate in zis Statement of Probable Cause any detailed information describing which of the eligibility requirements this suspect did not meet.
13. Notwithstanding that the Officer did not follow every single procedure set out in the General Orders, I do not agree that Office Wolfe's arrest was not supported by Probable Cause. Marijuana, weighing more than 10 grams, was found inside a vehicle that had a nexus to Drew Shepherd. Drew Shepherd was observed to have nervous behavior and was shaking when speaking with the officer. Additionally, Marijuana flakes were found in the front of the car near the driver's seat. Based on all of these observations, while it is typically Department policy to issue citations in such situations, probable cause did exist to believe that Drew Shepherd possessed more than 10 grams of marijuana. And as such is a criminal offense, the law provides generally that an arrest can be made for such charges, and that a citation is not mandatory, regardless of our own policy.

Fabian Aesop

Major Fabian Aesop

Affidavit of Val Villager, Witness for the Plaintiff

1. I'm born and raised in New York City, New York. I am now a resident of Chesapeake County and came to live here when I got employed as a reporter by the local Retriever Network affiliate out of Chesapeake County, Channel 04 Bay Retriever News. This is my first time living anywhere outside of New York City.
2. I have been a reporter at Bay Retriever News for two years. My contract with Bay Retriever News is up in about nine months.
3. The Chesapeake County market, which includes several surrounding urban counties, is the 26th largest market in the United States.
4. My career goals are to keep moving up the ladder within my profession which to me means getting hired with larger market TV networks. New York City is #1. New York is my career goal, for sure.
5. I interviewed Drew Shepherd on September 2, 2019 and reported on Drew's story.
6. I was assigned by the station to cover the Dolfin show for fan reactions. Boring! Wish I could have gone to the show instead. The station didn't even assign me a camera man. I was just walking around with a camera on my own and my interview pad.
7. Around 10:00 p.m., I was walking the parking lots near Pleasant Seas looking to interview anyone interesting and that's when I came across Drew Shepard. I asked Drew if Drew wanted to be televised giving Drew's reaction to the Dolfin show. Drew explained to me that ze didn't go to the show because ze was arrested just before the show started and brought back just after it ended. Drew told me that ze was taken to Central Booking, released without being charged, and then given a Marijuana citation anyway.
8. I took some notes when I first spoke with Drew. I am a stickler for reporting the truth, and I only write down the words I hear from the person I am interviewing. I'm not perfect but I do try as hard as I can to never paraphrase. I can't remember why I wrote "Back" and then scratched it out. I'm guessing that was a word I accidentally wrote and then immediately scratched out. I'm pretty certain Drew said nothing about marijuana in the backseat. If ze had, I agree that would have totally changed the story.
9. Once I realized I had a story on my hands, I asked Drew if ze would go on camera to tell zis story. Drew jumped at the chance and told the camera everything ze told me prior to the camera getting turned on.
10. Channel 4 Bay Retriever News transcribes the news stories that we air on TV. The webpage that you all have in evidence is a true and accurate transcript of the news story that aired in our TV broadcast.
11. I only found out after the story was aired that Drew Shephard had a criminal record for theft. I can say that I might have thought twice about airing the story if I had known about Drew's record of dishonesty.
12. I do recall that Drew asked me if ze could review the video interview before I aired the story. Ze gave such a detailed rendition of what happened that I knew zis first take was a great take of the story. Besides, like I said before, everything that ze told me before I started recording was what ze told me when I was recording.
13. In the old days, I probably would have waited to get a comment from the Police Department or Officer Wolfe before running the story but, nowadays, it's all about being the first one to get the story out there. Besides, this could have been my big break. I didn't want anyone else to get the story.
14. The "Probable Cause or Payback" story ran during the 11 o'clock news that night and again the next morning during the 5 a.m., 6 a.m. and 12:00 p.m. news casts.
15. This story definitely got a lot of feedback at the station. We took callers all afternoon wanting to follow-up on this officer; probably at least 100 calls. It really doesn't take much before people stop trusting the police. I maintain that this was a true story. But if it was Drew that was the one that actually wanted payback, ze got what ze wanted. All of our callers really hated hearing what Officer Wolfe did to Drew.

Val Villager
Val Villager

Affidavit of Drew Shepherd, Defendant

1. I am 22 years old and I am a resident of Chesapeake County.
2. I have a prior criminal conviction on May 1, 2018, for misdemeanor Theft under $1,000.00. My conviction involved a college prank where some friends and I got caught stealing our college's mascot, Howard the Mallard Duck. That is the only thing I have ever done wrong. I've heard the rumors that I've been accused of cheating in school in the past, but I have never done anything like that. I swear.
3. On September 2, 2019, I had tickets to see the biggest concert of the summer; not just in Maryland but everywhere. I had tickets with my friends to see Dolfin's last show ever at Pleasant Seas Dock Pavilion. Tickets sold out so fast that I had to buy them through the online secondary market. The face value of my ticket was $250.00. I paid $1,000.00 for my ticket. That was money that would have been well spent had that night gone the way it was supposed to.
4. Tickets sold out fast, and parking passes sold out even faster. My friends and I have been to several shows at Pleasant Seas before, so we knew we could park at the nearby Business Park parking lot.
5. Our plan for the evening was very straightforward. Dolfin was supposed to start at 7:00 p.m. Doors opened at 5:00 p.m. We parked at the Business Park around 4:00 p.m., and were set to tailgate until just before the show was to start. We did a potluck tailgate, no pun intended.
6. There were about five of us who met up before the show. One of our friends, Mary Jane Watson, brought some weed and some of my friends smoked before the show. I hung around while they smoked, but I didn't join in at all because I was the designated driver and I didn't want to do anything that could possibly affect my ability to drive at the end of the show.
7. I saw that Officer Wolfe wrote that I said I smoked earlier in the day but that isn't true. I never said that. I told zim my friends did but I never said I did.
8. Mary Jane left us about an hour before the show started. Some other friends of ours passed by our tailgate and Mary Jane took off with them to go to the concert early. I guess she left her purse and all her stuff in my car as well.
9. I remember Officer Wolfe walking up to us and saying hi. At that point, it was just me and Marley Lamb hanging out. All of us knew each other from high school. We were classmates at Chesapeake High School and graduated together in Spring, 2015.
10. Officer Wolfe says I was acting nervous. Nervous about what? I didn't have any marijuana on me. If ze had asked, I would have gladly given zir permission to search me. And what did ze find in my car? None of that was mine. Besides, it is marijuana. Aren't the only people going to jail for that drug dealers? Even if Wolfe found some flakes or whatever, that's just a civil citation and a fine.
11. When Officer Wolfe said I was under arrest, I was like, "For what?" Ze said my friend, Mary Jane, just got me busted. Ze then took me to jail.
12. Those hours that I sat in the jail were the longest hours of my life. I couldn't understand what was going on. I really couldn't believe I was under arrest. My whole life was flashing before my eyes. I went into a terrible panic. Plus, I was put into a holding cell with a whole bunch of people I did not know. There could have been murderers in there. And, not to mention, I was missing the show of a lifetime. To say I was angry about what was happening to me is an understatement. Officer Wolfe had no right to arrest me. I wonder sometimes how ze would feel if someone did the same exact thing to zim.
13. Then, all of the sudden, Officer Wolfe came and got me and took me out of the jail. Ze said I was being released without getting charged. Apparently, the Commissioner who reviews Applications for Charges did not find that there was Probable Cause to charge me with Possession of Marijuana over 10 grams. I wasn't given a copy of any paperwork from the jail. I didn't get to see the Statement of Probable Cause that Office Wolfe wrote until about a week later when I ordered a copy of the records.
14. Officer Wolfe drove me back to my car. When ze dropped me off, ze handed me a citation for Possession of Marijuana under 10 grams. Before ze left, ze told me that I should really pick better friends.

15. After Officer Wolfe left, I just stood there in disbelief. I couldn't move. I was so frustrated and upset. I couldn't make sense of what just happened.
16. Then, out of nowhere, I was approached by a reporter by the name of Val Villager. Val asked me if I attended the show and if I wanted to go on camera and give my reaction to what it was like to be at the show of the century.
17. I told Val Villager everything that happened to me that night - everything. Val Villager took notes while speaking to me and then asked me if I wanted to tape an interview. I agreed because I wanted the world to know what Officer Wolfe did to me.
18. I told Val Villager my story. Before we taped the story, I told Val Villager that the Officer had found pot in the front and back of the car.
19. When Val Villager interviewed me on camera, everything happened so quickly. We did everything in one take. I asked zim right after we were done recording if I could watch the interview before ze left. Val Villager told me ze got the story and that there wasn't time to review the tape.
20. Ever since those hours that I spent in jail, I have had anxiety and have begun seeing a therapist and am now prescribed anti-anxiety medication. It's the only way I can function every day.

Drew Shepherd

Drew Shepherd

Affidavit of Marley Lamb, Witness for the Defendant

1. I am 22 years old and I am a resident of Chesapeake County.
2. I know both Drew Shepherd and Jordan Wolfe from high school.
3. My impressions of Jordan Wolfe from having grown up with him is that ze is more of a straight-edged no-nonsense kind-of-person. I lost touch though with Jordan when we all graduated from high school. It doesn't seem like a lot has changed in zis personality since then. I can definitely see why ze and Drew aren't friends anymore.
4. Drew and I are friends. We both enjoy the same music. We like going to concerts. Ze's fun to hang out with. I guess you could say that every concert Drew has gone to, I've attended as well.
5. Drew is one of my best friends but ze's like that friend that is a jerk but ze's my jerk. Like no one trusts anything that comes out of zis mouth but some of it has got to be true, right? I like to joke sometimes that I'm 90% sure zis name is in fact Drew Shepherd.
6. Has Drew ever been caught cheating? Yeah, by me. I saw zim reading right off of my page during a multiple-choice exam in high school. But that was like 100 years ago. Ze looked me right in the eyes and denied it. Can you believe that? I didn't report it. I am definitely aware that others had said Drew did the same thing to them. I heard someone told the school administration that Drew cheated and I heard that Drew got into a lot of trouble for it. I remember in our senior year, Drew was out of school for a few days in a row. Someone told me it was because ze was suspended for cheating.
7. September 2, 2019 was supposed to be an EPIC night! It was for me, at least.
8. One thing I will say is, and I can't believe I'm saying this, but I do believe Drew over Officer Wolfe in this case.
9. Drew wasn't smoking weed at all before the concert. Ze was our designated driver. No drugs, no alcohol for Drew. I would have freaked out if I saw zim doing any of that and knew ze would be driving me.
10. I remember when Officer Wolfe came up to us. I thought it was cool to run into zim. I thought we might catch up. Then all of the sudden, ze got really serious with us and started searching Drew's car.
11. I felt Drew was very cooperative with Officer Wolfe.
12. I also don't feel as if Drew was acting any different than ze normally would have. So, if you ask me if ze was acting nervous, or if zis hands were shaking, I didn't notice anything like that.
13. In my opinion, Drew didn't smell like marijuana at all. Sure, some of us were smoking earlier in the day but Drew wasn't part of that and I don't recall zim standing near us when we did smoke. Ze was paranoid about getting any of the effects of the weed on zim. Ze also didn't want to risk smelling like weed and then getting pulled over on the way home and trying to explain to an officer why ze smelled like weed.
14. The weed that Officer Wolfe found in the back seat was definitely Mary Jane's. That Commissioner got it totally right saying there was no probable cause to charge Drew with it.
15. I can't really explain the flakes in the front seat. But, really, who cares? What are they? Not even a gram of weed. They probably got there when someone from our group who was smoking quickly grabbed something out of the car.
16. Even though Drew can be a jerk sometimes, I still feel bad for zim. Those tickets cost each of us $1,000 per ticket. And now Drew is in therapy. Ze says ze wakes up at night and dreams ze is right back in jail.
17. When Officer Wolfe arrested Drew, I went into the concert and met up with the rest of the group. My plan was to Uber home and then I lucked out and ran into Drew back in the parking lot talking to that reporter, Val Villager. I think Drew told the reporter about the marijuana in the back seat, but I can't really remember. Keep in mind… I know that night sucked for Drew, but it was one of the best nights of my life notwithstanding everything that happened in the beginning. Dolfin really brought their A-game. My mind was still on the show when I found Drew.

Marley Lamb
Marley Lamb

Affidavit of Alex Masterson, Witness for the Defendant

1. Below is my relevant training and experience.
    - Since 2017, I have been employed by Forensic Finders. Forensic Finders is a for-profit multi-disciplinary firm that offers a broad range of specialty experts. For customers of Forensic Finders, I provide failure analysis related to police practices. Police Practices and procedures expertise includes the duties and responsibilities of patrol officers, investigators, supervisors, departments and municipalities including:
        - Use of Force
        - Pursuits
        - Police officer training
        - Supervision of police personnel
        - Internal investigations
        - Policy and procedure development
        - Drug Enforcement Operations
        - Applicant background investigations
        - Securing crime and accident scenes
    - Prior to joining Forensic Finders, I worked for the Dallas Police Department in Texas. I worked with this department in various capacities from 1993 until my retirement in 2017.
        - From 1993 to 1997, my first assignment on the Dallas PD was as a Patrol Officer.
        - From 1997 to 2002, I was assigned to our Drug Enforcement Unit. There I was trained in the recognition of a variety of controlled dangerous substances, including Marijuana, as well as their packaging for distribution purposes. Additionally, as part of these duties, I received both classroom and field training in how to observe the common characteristic of a criminal drug distribution operation. With this training, I participated in hundreds of drug investigations and arrested hundreds of people that were ultimately charged with crimes anywhere from Possession of Controlled Dangerous Substances all the way up to Distribution of Controlled Dangerous Substances.
        - From 2002 to 2008, I was a Police Patrol Sergeant. My responsibilities there included supervision of 8-15 police patrol officers and my duties included day-to-day direct supervision of personnel in the performance of their assigned duties.
        - From 2008-2013, I was a Police Traffic Sergeant which meant I was responsible for training and supervising other newer officers assigned to traffic enforcement.
        - From 2013 to 2017, I was promoted to the rank of Lieutenant. In this role, I supervised 8 sergeants, 26 sworn officers, and 50 police auxiliary officers. Additionally, my responsibilities included developing and implementing police training and policy in a variety of areas.
2. Since joining Forensic Finders, I have been qualified and testified as an Expert in the Field of Police Practices five times. I have been retained to testify as an expert probably ten times that amount but I'm told those cases settled without a need to appear in court. I have been deposed a total of twenty times. I'm happy to speak with anyone who wants to consult with me and pay the initial retainer fee. I'm sure I've been consulted with in the past by Plaintiffs who ultimately did not retain me for my services. No cases come to mind, but I have to imagine it happened at some point.
3. I average around $125,000 per year rendering opinions for lawyers and testifying as necessary. When I am consulted by attorneys, I charge my initial retainer fee of $5,000 to review a case, write up any reports and/or affidavits and for all pretrial consultations. If I need to appear in court or for depositions, I charge $5,000 for each day that I have to appear plus travel and lodging. I never appear in court without my fee being paid first. I am based out of Dallas, Texas.

4. I will acknowledge right off the bat that policing marijuana has become a lot more difficult for the modern police officer. Some states are legalizing marijuana. Others are decriminalizing. And the rest are still business as usual. In Maryland, I am aware that some State's Attorneys have announced that they aren't even prosecuting marijuana possession anymore no matter what the law says. It's for these reasons that it is so important that police follow their regulations closely to protect themselves while out walking the beat.
5. I had an opportunity to review all of the records from this case, including all charging documents, news clippings, witness statements, and Chesapeake County Police General Orders.
6. Based on all of my knowledge, training, and experience, plus my awareness of the facts of this case, it is my opinion, in this case, that Officer Wolfe did not follow proper Police Practices as set out in the Chesapeake County Police Department General Orders, acted with malice when arresting Drew Shepherd, and did not have a legal justification to arrest Drew Shepherd.
7. In formulating my opinion in this case, I did interview Drew Shepherd. Our interview was over the phone. The phone conversation didn't last longer than 15 minutes. I did not interview Officer Wolfe. During my conversation with Drew Shepherd, I delved into the relationship history between Drew and Officer Wolfe. Drew told me about how these two used to be friends and that they drifted apart years ago. When you combine that history with the comment Drew told me that Officer Wolfe said to Drew about choosing zis friends more wisely, it creates a strong likelihood that Officer Wolfe was more likely driven by improper motives.
8. I have had an opportunity to review Chesapeake County Police Department's General Orders 808, 809, and 1112. According to the Rules and Procedures set out by CCPD, Officer Wolfe failed to complete an Incident Report. Additionally, as this was a citation-eligible offense, ze failed to articulate in zis Statement of Probable Cause any detailed information describing which of the eligibility requirements zis suspect did not meet.
9. Finally, based on all of the information provided in the Statement of Probable Cause, it is clear that Probable Cause was lacking to charge Drew Shepherd with Possession of the Marijuana found in the back seat.
10. The most difficult part of my job is the reality that I am Monday Morning Quarterbacking something that an Officer only had a moment to make a decision about.
11. But the fact still remains, in my expert opinion, that the finding of the Marijuana where ze did created an extremely strong likelihood, absent more information, that the Marijuana found in the purse was not possessed by Drew Shepherd.
12. Of course, I wasn't there, and my opinion could change if more facts were added to this analysis.

Alex Masterson
Alex Masterson

UNIFORM CIVIL CITATION

☐ WITNESS

☐ RELATED CASE NO./ ➡

District Court of Maryland for Chesapeake County

123 Court Street
Address

Chesapeake County, MD 22222 — CCPD
County/Municipality/State of MD — Agency

Shepherd, Drew
Defendant's (Last) Name — First — Middle

Current Street Address

City — County — State — Zip

DOB — Height — Weight — Sex — Race — Hair — Eyes

Phone — Email

Based on ☒ personal knowledge of the undersigned officer ☐ the attached affidavit, the Defendant is charged with:

Possession of a controlled dangerous substance of schedule I to wit: Marijuana in an amount of less than 10 grams

Time: 6:00 ☐AM ☑PM Month 9 / Date 2 / Year 19

@ Location of Offense: Chesapeake County, MD in violation of: ☒ Md. Ann. Code

☐ Municipal Infraction/County Ordinance/Public Local Law/Local Code ☐ COMAR

Document/Article CL Section 5-601 Sub-section C2 Paragraph II

☐ Each day a violation continues is a separate infraction subject to an additional citation.

I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation.
Defendant's Signature We'll see!!! Drew Shepherd

INSTRUCTIONS

☐ **YOU MUST APPEAR IN COURT.** A notice of trial date will be mailed to you.

☒ **YOU MAY PAY A FINE** of $ 50 (entire amount required) by: 10/2/19 (date) to the:

☐ District Court. Payment of the fine will not close the case if XXXXXXX action is pending.

☐ Agency/Municipality

At (Payment Location) Any District Court in Maryland

And avoid trial. This will be deemed as an admission of guilt and a trial date will not be set.

YOU MAY ELECT TO STAND TRIAL by sending a request in writing to the:

☒ District Court

☐ Agency/ Municipality

In writing by (date) 10/2/19 (address) 123 Court Street, Chesapeake County MD 22222

DO NOT SEND PAYMENT. The District Court will mail you a notice of your trial date, time and location. AT TRIAL, the Court may impose up to the maximum allowed by statute plus court costs.

IN ADDITION, (Agency/Municipality) is seeking abatement of this infraction. You may be ordered to abate this infraction or be assessed the costs for the abatement, as well as a fine of up to $1,000, plus court costs. Payment of the preset fine will not satisfy the abatement action and the abatement may still be entered against you.

☒ **FAILING TO APPEAR OR PAY THE FINE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.**

☐ **FAILING TO PAY THE FINE OR REQUEST A TRIAL DATE:** will deem you liable for the fine assessed; the fine may be doubled and/or a judgment on affidavit may be entered against you including an order of abatement.

☐ **FAILURE TO APPEAR FOR A REQUESTED TRIAL DATE:** the fine may be doubled and a judgment on affidavit entered against you.

I solemnly affirm under the penalties of perjury, and based upon personal knowledge or the attached affidavit, that the contents of this citation are true and that I am competent to testify on these matters.

☐ The Defendant is not now in the military service, as defined in the Service-members Civil Relief Act.

Jordan Wolfe — Officer Jordan Wolfe — 9/2/19
Issuing Officer's Signature — Officer's Printed Name — Date

Chesapeake County Police — 1111 — 410-443-2401
Agency / Sub-Agency — ID No. — Phone

DISTRICT COURT OF MARYLAND FOR CHESAPEAKE COUNTY (City/County)

RELATED CASES:

EXHIBIT 2- APPLICATION FOR STATEMENT OF CHARGES

LOCATED AT (COURT ADDRESS)
123 Court Street
Chesapeake County, MD 22222

CASE NUMBER

COMPLAINANT	DEFENDANT
OFFICER JORDAN WOLFE Printed Name	DREW SHEPHERD Printed Name
CHESAPEAKE COUNTY POLICE DEPARTMENT Address	Address
CHESAPEAKE COUNTY, MD City, State, Zip — Telephone	City, State, Zip — Telephone
ID 1111 Agency, sub-agency, and I.D. # (Officer Only)	CC# 1234-11

DEFENDANT'S DESCRIPTION: Driver's License # _____ Sex _____ Race _____ Ht. _____ Wt. _____

Hair _____ Eyes _____ Complexion _____ Other _____ DOB _____ ID _____

APPLICATION FOR STATEMENT OF CHARGES

I, the undersigned, apply for statement of charges and a summons or warrant which may lead to the arrest of the above named Defendant because on or about 9/2/19 (Date) at a Business Park near Pleasant Seas Dock Pavilion, located in Chesapeake County, MD (Place), the above named Defendant

see page 2 of 2

(Concise statement of facts showing that there is probable cause to believe that a crime has been committed and that the Defendant has committed it):

(Continued on attached 2 pages) (DC-CR-001A)

I solemnly affirm under the penalties of perjury that the contents of this Application are true to the best of my knowledge, information, and belief.

9/2/19 (Date)

/s/ Jordan Wolfe (Officer's Signature)

Officer Jordan Wolfe (Printed Name)

I have read or had read to me and I understand the Notice on the back of this form.

9/2/19 (Date)

/s/ Jordan Wolfe (Applicant's Signature)

Officer Jordan Wolfe (Printed Name)

Subscribed and sworn to before me this 2nd day of September (Month) 2019 (Year)

Time: 9:00 ☐ AM ☒ PM Judge/Commissioner S. Judy 5678 (I.D. No.)

I understand that a charging document will be issued and that I must appear for trial ☐ on _____ (Date)

at _____ (Time), ☐ when notified by the Clerk, at the court location shown at the top of this form.

/s/ Jordan Wolfe (Applicant's Signature)

☐ Applicant requests reasonable protection for safety of the alleged victim or the victim's family _____ (Describe)

☐ I have advised applicant of shielding right. ☐ Applicant declines shielding.

☒ I declined to issue a charging document because of lack of probable cause.

9/2/19 (Date)

/s/ S. Judy (Commissioner) 5678 (I.D. No.)

S. Judy (Printed Name)

40 TRACKING NUMBER

DISTRICT COURT OF MARYLAND FOR CHESAPEAKE COUNTY (City/County)

LOCATED AT (COURT ADDRESS)
123 Court Street
Chesapeake County, MD 22222

DISTRICT COURT CASE NUMBER

DEFENDANT'S NAME (LAST, FIRST, M.I)
SHEPHERD, DREW

APPLICATION FOR STATEMENT OF CHARGES (CONTINUED) Page 2 of 2

On September 2, 2019, at approximately 1800 hours, I was on patrol in a marked patrol vehicle. I was assigned to patrol the area around the Pleasant Seas Dock Pavilion. The performers for the concert being held that evening was a popular band by the name of Dolfin. Dolfin is a band known to law enforcement as a band that typically attracts large scale drug use and distribution behavior from its patrons. While the neighborhood where Pleasant Seas is typically a quiet area, it quickly turns into a high crime area when bands like Dolfin are in town.

At the time stated, I entered a parking lot that was being used for overflow parking for a concert being held at the Pleasant Seas venue that evening. I parked my patrol vehicle and continued on foot patrol to observe if there was any overt criminal activity taking place. I observed Drew Shepherd and Marley Lamb standing next to a parked vehicle. I engaged Drew Shepherd and Marley Lamb in a field interview. They advised they were winding down their tailgate, a term used to describe a party being held out of the back of one's car. They further advised they were getting ready to go to into the concert.

While speaking with Drew Shepherd, ze appeared to be very nervous and zis hands were shaking. I also detected a faint odor of marijuana. At first, I had trouble localizing the odor but then I noticed that the scent got much stronger near the vehicle associated with Drew Shepherd and Marley Lamb. I asked them both who the vehicle belonged to. Drew Shepherd advised that the vehicle belonged to Drew's parents and that ze had driven the car there to be everyone's designated driver.

I could see greenish brown leafy flakes (shake) scattered within the center console area of the front portion of the vehicle. I asked Drew Shepherd if ze had any marijuana within the vehicle or on zis person. Drew Shepherd stated no and that ze was around others earlier in the night who were smoking marijuana. Specifically, Drew Shepherd stated, "Look at where we are. There are drugs everywhere. What's the big deal? Right now, while you are shaking me down, someone's probably getting away with a murder." Ze further stated that ze does not smoke marijuana and later changed that statement to that ze did smoke marijuana earlier in the day.

I had Drew Shepherd and Marley Lamb have a seat on the ground while I conducted a probable cause search of the vehicle. This search yielded from within a purse located on the floor area of the passenger side back seat one clear glass jar containing a greenish brown leafy substance of CDS marijuana as well as documents within the purse all with the identifying information of Mary Jane Watson on them. The jar contained approximately 20 grams of marijuana.

I placed Drew Shepherd under arrest at this time and searched Drew Shepherd incident to arrest. Nothing further was recovered.

Through my training, knowledge, and expertise gained as a Chesapeake County Police Officer, I recognized the greenish brown leafy substances as CDS Marijuana. Based on the quantity recovered, and the surrounding circumstances of this case, I had no reason to believe that the possession of this marijuana was in any way connected to a Distribution of Marijuana operation or any other type of felony activity. I have received training through the Police Academy as well as in-service training in the recognition of controlled dangerous substances, including marijuana. I have successfully made or participated in over 50 cases for CDS Violations in my 1 year of experience as a police officer resulting in the seizure of this suspected substance.

I recovered both the jar containing suspected Marijuana as well as the flakes of marijuana found in the front of the vehicle and submitted them for analysis. All events occurred in the state of Maryland, Chesapeake County.

9/2/19
Date

/s/ Jordan Wolfe
Applicant's Signature

Officer Jordan Wolfe
Printed Name

TRACKING NUMBER

DC-CR-001A (Rev. 04/2015)

EXHIBIT 3 – FORENSIC LABORATORY REPORT

CHESAPEAKE COUNTY POLICE DEPARTMENT
FORENSIC SERVICES SECTION
LABORATORY REPORT / CHEMISTRY REPORT

DATE:	**September 25, 2019**
DIVISION:	**Patrol**
INVESTIGATING OFFICER'S NAME:	**WOLFE**
SUBMITTING OFFICER'S NAME:	**WOLFE**
CC#:	**1234-11**
OFFENSE DATE:	**September 2, 2019**
DATE OF SUBMISSION:	**September 2, 2019**
SUSPECT'S NAME:	**DREW SHEPHERD**
CHEMIST NAME:	**PERZEL, Forensic Chemist**

ITEM#	DESCRIPTION	CONCLUSION
1	Loose plant matter Total weight: < 1 gram	Marijuana – CDS Schedule I
2	Jar containing plant matter Total weight: 19.3 grams	Marijuana – CDS Schedule I

I hereby attest that I am employed by the Chesapeake County Police Department and am certified by the Maryland State Department of Health as a Certified Chemist. I am qualified under standards approved by the Maryland State Department of Health to analyze the above referenced substance(s). The above listed substance(s) were properly tested utilizing analytical and quality control procedures approved by the Maryland State Department of Health. The evidence submitted in this case is in essentially the same condition as when I received it, except for the material consumed in the analytical process. All evidence was returned/submitted to the Evidence Management Unit. This report contains the opinions and interpretations of the undersigned analyst based on reliable scientific data and is a true and accurate record of the examination(s) conducted. If an item has a numerical weight recorded to two decimals places in this report, it is accurate to within +/- 0.06 grams, at a coverage probability of 95.45%. If an item has a numerical weight recorded to one decimal place in this report, it is accurate to within +/- 0.1 grams, at a coverage probability of 95.45%. The above item(s) of evidence were examined between 9/25/19 and 9/25/19.

SIGNATURE **Perzel** **DATE** **September 25, 2019**

EXHIBIT 4 – CERTIFIED RECORDS

CERTIFIED RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY

I, Major Fabian Aesop, do hereby certify that:

(1) I am the Custodian of Records of or am otherwise qualified to administer the records for:

The Chesapeake County Police Department's Police Academy, and

(2) The attached records, specifically Policy 808, 809, and 1112, all of which are signed by myself and Jordan Wolfe,

(a) are true and correct copies of records that were made at or near the time of the occurrence of the matters set forth by, or from the information transmitted by, a person with knowledge of these matters; and

(b) were kept in the course of regularly conducted activity; and

(c) were made and kept by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct.

Fabian Aesop

Major Fabian Aesop

Date: October 15, 2019

Chesapeake County Police Dept. Policy 808

Subject	
CRIMINAL AND CIVIL CITATION PROCEDURES	
Date Published	Page
1 August 2016	**1 of 5**

By Order of the Police Commissioner

PURPOSE

This policy establishes guidelines governing the issuance of criminal and civil citations.

POLICY

It is the policy of the Chesapeake County Police Department to:

1. Issue criminal and civil citations without regard for the race, gender or ethnicity of the person to whom the citation(s) shall be issued.

2. Issue criminal citations in accordance with §4-101 of the Criminal Procedure Article.

3. Issue criminal citations only when a member is unable to identify an applicable civil violation with which to charge a citation-eligible suspect.

4. Collect, submit and analyze appropriate data as required by §4-101.1 of the Criminal Procedure Article.

DEFINITIONS

Acceptable Identification — Hereinafter referred to as "acceptable ID"; acceptable ID shall be considered one of the following:

1. An identification presented by the suspect which the officer believes to be satisfactory evidence of his/her identity; or

2. An identification of the suspect that is confirmed through other reliable means (e.g., FAST ID, or an MVA/NCIC/CJIS query).

Some examples of acceptable ID would be: a driver's license; a state-issued identification card; a passport; or, a military ID card. An officer's prior knowledge of the suspect's identity alone, without supporting documentation, is **not** considered to be acceptable ID.

Citation-Eligible Offense — A misdemeanor offense that may be enforced by either issuing a citation "on the scene" OR by making a custodial arrest. The following types of misdemeanors are considered to be citation-eligible:

1. Any misdemeanor or local ordinance violation that does not carry a penalty of

Imprisonment.

2. Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less.

3. Possession of marijuana under §5-601 of the Criminal Law Article. (See Policy 809)

NOTE: If the quantity and circumstances indicate an intent to distribute marijuana, the suspect shall be arrested and charged under §5-602 of the Criminal Law Article.

Eligibility Requirements – A suspect must meet all of the following requirements in order to be "eligible" to receive a criminal or civil citation:

1. The officer can obtain an acceptable ID from/of the suspect.

2. The officer reasonably believes that the suspect will comply with the citation.

3. The officer reasonably believes that issuing a citation does not pose a threat to public safety (i.e., the underlying offense for which the citation will be issued does not indicate a potential for additional disturbance or destruction by the suspect after the officer's departure).

4. The suspect is not wanted on any outstanding warrant.

5. The suspect is not subject to arrest for a non-citation-eligible offense arising out of the same incident.

6. The suspect is compliant with all orders and instructions given by the officer.

If a suspect does not meet all of these eligibility requirements, he/she may not receive a citation on the scene and shall instead be arrested in accordance with departmental policy and procedure. Any associated Crime Incident Report and Statement of Probable Cause (SPC) must then include detailed information describing which of the eligibility requirements the suspect did not meet.

EXCLUDED OFFENSES

The following offenses may never be charged by citation:

1. Failure to comply with a peace order under §3-1508 of the Courts and Judicial Proceedings Article.

2. Failure to comply with a protective order under §4-509 of the Family Law Article.

3. A violation of a condition of pretrial or post-trial release while charged with a sexual crime against a minor under §5-213.1 of the Criminal Procedure Article.

4. Possession of an electronic control device after conviction of a drug felony or crime of violence under §4-109(b) of the Criminal Law Article.

5. Violation of an out-of-state domestic violence order under §4-508.1 of the Family Law Article.

6. Abuse or neglect of an animal under §10-604 of the Criminal Law Article.

7. Any charge that is domestic violence-related.

SPECIAL CIRCUMSTANCES - SEARCH INCIDENT TO ARREST / NON-CONSENSUAL SEARCHES

Only a custodial arrest carries with it the automatic authority to conduct a search of the arrestee's person, garments and belongings.

If an officer intends to issue a criminal citation (in lieu of arrest) to a suspect "on the scene" and then allow him/her to depart the location after receiving the citation, there is no corresponding authority to conduct any type of search incident to arrest / non-consensual search.

Whenever an officer has probable cause to believe that a suspect has committed a citation- eligible criminal offense, and the officer further believes that a search of the suspect's person, garments or belongings will recover evidence related to that criminal offense, a criminal citation will not be issued and the suspect shall instead be arrested.

Nothing in this section shall be construed as restricting an officer's ability to conduct a lawful pat- down of a suspect. If an officer can articulate a reasonable articulable suspicion that a suspect may be armed and presents a threat to the safety of the officer and/or others in the vicinity, the officer may conduct a pat-down in accordance with departmental policy.

NOTE: All pat-downs must be documented in accordance with policy 1112, Field Interviews, Stops, Weapons Pat-Downs and Searches.

REQUIRED ACTION

Member – Criminal Citations

1. If a suspect is arrested for a citation-eligible offense, any associated Crime Incident Report and SPC must then include detailed information describing which of the eligibility requirements the suspect did not meet.

2. If a suspect has committed any combination of arrest able offense(s) and citation-eligible offense(s), the arrestable offense(s) shall take precedence and:

   2.1. The suspect shall be arrested in accordance with existing departmental policy; and

   2.2. The lesser included citation-eligible offenses shall be charged within the resulting statement of charges.

3. For both criminal and civil citations:

3.1. The suspect must be at least 18 years of age.

3.2. A warrant check/10-29 must be conducted in order to verify that the suspect has no outstanding warrants.

3.3. The suspect must be identified via some form of acceptable ID.

NOTE: If the suspect cannot be identified with an "acceptable ID" as defined in this policy, he/she is not eligible to receive a citation and shall be arrested and charged according to existing departmental policy.

3.4. If the suspect's acceptable ID includes a unique identification number (such as a Soundex number, SID number, etc.), it must be included on the citation(s) and in any Crime Incident Report that will be completed.

3.5. Complete the citation by filling in all applicable/required boxes.

3.6. The suspect must sign the citation.

NOTE: If the suspect refuses to sign, inform him/her that failing to sign can lead to his/her arrest (as refusing to sign indicates non-compliance; see Eligibility Requirement No. 6).

4. Multiple citations may be issued, but only one offense maybe charged per citation.

4.1. Multiple citations shall be "looped" in the same fashion as when multiple traffic citations are issued to the same motorist.

5. All citations and related reports must be submitted to your supervisor before the end of your tour of duty.

Member - Criminal Citations

1. Criminal citations will always require an accompanying Crime Incident Report.

2. Include the citation number(s) on the first line of the Crime Incident Report's narrative.

3. Write an SPC on the reverse side of the "State's Attorney" copy that includes enough detail(s) to establish the elements of the offense charged on the citation.

NOTE: For multiple "looped" citations, only one statement of probable cause is necessary, provided it includes sufficient details to establish the elements of all charged offenses. Any remaining citation(s) must then contain a statement in the probable cause section referring to the other citation(s) (e.g., "See companion citation number…").

4. Additional information related to the investigation (but not required to establish the elements of the offense charged on the citation) may be documented in the narrative of the Crime Incident Report only.

5. Include the central complaint (CC) number of the accompanying Crime Incident Report within the citation's SPC.

Member - Civil Citations

1. In general, Chesapeake County civil citations do not require a Crime Incident Report from the issuing officer.

NOTE: The only occasion on which a Crime Incident Report will be required with a civil citation is one in which evidence is recovered/seized (i.e., a civil citation is written for a ticket- scalping offense and the ticket(s) must be recovered or civil CDS, see Policy 809).

2. Insert a fine amount where required in the section of the citation entitled "INSTRUCTIONS."

3. Write a concise narrative of the facts where indicated on the front of the citation's "City/Court Copy."

ASSOCIATED POLICIES

Policy 809, *Marijuana: Uniform Civil Citation*

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

CERTIFICATE OF UNDERSTANDING

I, Jordan Wolfe, certify that I have read and understand Policy 808 and have no questions about the policies contained within.

Jordan Wolfe _____ *8/1/18* _____
Date

Witnessed by: *Fabian Aesop* _____ *8/1/18* _____
Date

Chesapeake County Police Dept. Policy 809

Subject	
MARIJUANA: UNIFORM CIVIL CITATION	
Date Published	**Page**
1 July 2016	**1 of 6**

By Order of the Police Commissioner

POLICY

The Chesapeake County Police Department (CCPD) recognizes the importance of enforcing laws and providing citizens with non-biased based policing. To maintain public trust, officers are not to use bias-based policing when deciding whether or not to issue a Uniform Civil Citation for possessing less than 10 grams of marijuana. The issuance of a citation for the use or possession of less than 10 grams of marijuana is at the discretion of the issuing officer or his/her supervisor in keeping with the best interest of the citizen, the officer and the Department.

NOTE: Members are not permitted to arrest individuals for use or possession of less than 10 grams of marijuana. However, the odor of marijuana still may establish probable cause to investigate possible criminal activity, and may still support searches, consistent with existing policies. This directive supersedes the direction of Policy 808, *Civil and Criminal Citations*, concerning marijuana less than 10 grams.

BACKGROUND

Although the use or possession of less than 10 grams of marijuana is a civil offense under Md. Code CR 5-601, marijuana in any amount is still considered contraband under State law. The odor of marijuana constitutes probable cause (see Wilson v. State, 174 Md. App 434 [2004]) to investigate possible criminal activity. Md. Code CR 5-601 does not affect the current laws governing Driving under the Influence of or Driving While Impaired by a controlled dangerous substance, or the laws governing seizure and forfeiture. Additionally, members should be aware that when investigation leads to evidence that supports charges for possession with intent to distribute, distribution, or manufacture of marijuana, criminal charges are warranted, regardless of the amount of marijuana recovered.

Although the possession of paraphernalia is still a criminal offense for which a member may arrest individuals, members shall not arrest for possession of paraphernalia in situations where the only other contraband recovered is less than 10 grams of marijuana.

Criminal offenses supersede civil offenses. Therefore, where multiple offenses exist and both criminal and civil offenses are possible, disregard the civil offense and only charge the individual criminally.

The burden of proof for Uniform Civil Citations for the use or possession of less than 10 grams of marijuana is preponderance of the evidence. This standard imposes a lesser burden than that used in criminal matters, proof beyond a reasonable doubt.

Probable cause is needed to cite for less than 10 grams of marijuana.

PURPOSE

To provide members of the Chesapeake County Police Department (CCPD) with policy and procedure when encountering people using or possessing less than 10 grams of marijuana. Section 5-601 of the Criminal Law Article of the Maryland Code (Md. Code CR 5-601) repeals criminal penalties and imposes civil fines for anyone possessing less than 10 grams of marijuana.

DEFINITIONS

Civil CDS – The subject of miscellaneous reports, concerning less than 10 grams of marijuana. The Computer Aided Dispatch (CAD) code is 87c.

Uniform Juvenile Civil Citation – A State Juvenile Civil Citation, from the District Court of Maryland. This is the only citation to be used to cite a juvenile for use or possession of less than 10 grams of marijuana.

Juveniles 17 years of age and younger are not eligible to pay the fine; they must appear in court.

NOTE: This is only required for juvenile citations.

1. Officers, who encounter juveniles 17 years of age and under using or possessing less than 10 grams of marijuana MUST issue Uniform Juvenile Civil Citations by which the juvenile must appear at a hearing with the Department of Juvenile Services (DJS). A hearing date will be set and entered by DJS. Intake, upon receipt of the civil citation shall leave the hearing date space blank.

Adults 18 – 20 years of age are not eligible to pay the fine. They must appear in court.

If an adult between the ages of 18-20 (inclusive), is in possession of less than 10 grams of suspected marijuana, a Uniform Civil Citation may be issued; and “must appear” shall be marked.

Adults 21 years of age or older are eligible to pay the fine or appear in court.

1. Officers, encountering a person 21 years of age or older possessing less than 10 grams of marijuana, may use their discretion in issuing a Uniform Civil Citation, which imposes a fine.

Since the law recognizes marijuana as contraband officers shall seize the contraband and submit the evidence/contraband to the Evidence Control Unit (ECU).

NOTE: Marijuana seized from a citizen and submitted to ECU is not Found Property. It is Recovered Property.

2. A Citizen/Police Contact Receipt must be issued and a Miscellaneous Incident Report written.

EXCEPTIONS

The following offenses are still illegal and officers may still arrest where:

2.1. Investigation establishes a violation of the laws, relating to operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance.

2.2. Investigation establishes a violation of laws, prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled dangerous substances.

REQUIRED ACTION

Member - General

1. Conduct a warrant check.

2. Use discretion in the issuance of a Uniform Civil Citation.

2.1. Record the probable cause on the reverse of the Officer's copy, titled "Officer's Notes".

3. Complete a Citizen/Police Contact Receipt.

4. Complete a Miscellaneous Incident Report, titled "Civil CDS".

4.1. Regardless of the member electing to issue a Uniform Civil Citation or not, complete a Miscellaneous Incident Report for the seized contraband.

4.2. When requesting a CC#, notify the dispatcher it is for Civil CDS.

5. If a suspect is charged by Uniform Civil Citation, any associated Crime/Incident Report must include detailed information describing the incident, probable cause, and disposition of the evidence by means of property submission per departmental guidelines.

6. If a suspect has committed any combination of criminal offenses and civil offenses, the criminal offense shall take precedence and:

6.1. The suspect shall be arrested and criminally charged in accordance with existing departmental policy and rules and regulations.

6.2. No Uniform Civil Citation shall be issued. A Miscellaneous Incident report is required to

Record the disposition of the recovered property.

7. When issuing citations for less than 10 grams of suspected marijuana the member must:

   7.1. For individuals, who are 21 years old and above, the officer must check the "MAY PAY A FINE" box and indicate the prepay amount of $50. Payment may be made at any District Court of Maryland location, and check the "MAY ELECT TO STAND TRIAL" box. The hearing date will be set by the District Court. The respondent will be notified by mail.

   7.2. Officers, who issue a Uniform Civil Citation for possession of less than 10 grams of marijuana, must, in the absence of an official measurement, rely upon their training, knowledge, and experience to determine the unpackaged weight of less than 10 grams to meet the requirements of a citation. This evaluation must be documented by the officer in the reports pertaining to the incident.

   7.3. Should the person refuse to sign the Uniform Civil Citation, the officer will write "Refused to Sign" on the signature line of the citation.

   7.4. Appear for court when summoned.

NOTE: Court appearances for Civil CDS of marijuana less than 10 grams citations will be held at the Eastside Court.

8. The officer must inform the adult (21 years of age and over) that if he/she chooses to elect a hearing on the citation, the Court may impose up to a $100.00 fine plus court costs.

9. Ensure all reporting and submissions are completed by the end of your tour of duty.

   9.1. Write on the Uniform Civil Citation for less than 10 grams of marijuana and associated reports that the "weight is less than 10 grams".

   9.2. All citations are to be turned in to the officers' Command.

Evidence Control Unit (ECU) Submission

All seized CDS must be submitted to ECU:

1. When members enter ECU, respond to the receiving counter and advise ECU staff that you have marijuana of less than 10 grams.

2. The submitting officer will be directed to take the marijuana out of its packaging and place it on the scale at the desk.

3. The submitting officer and ECU staff will follow regular submission protocol.

4. The submitting officer will fill out the BPD Property Receipt, Form 56, and will include the weight of the marijuana in their description of the marijuana in the description box.

APPENDICIES

A. Marijuana Civil Citation Form DC-028 (Rev. 8/2017)

ASSOCIATED POLICIES

Policy 808, *Criminal and Civil Citation Procedures*

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Commanders are responsible for informing their subordinates of this policy and ensuring compliance.

CERTIFICATE OF UNDERSTANDING

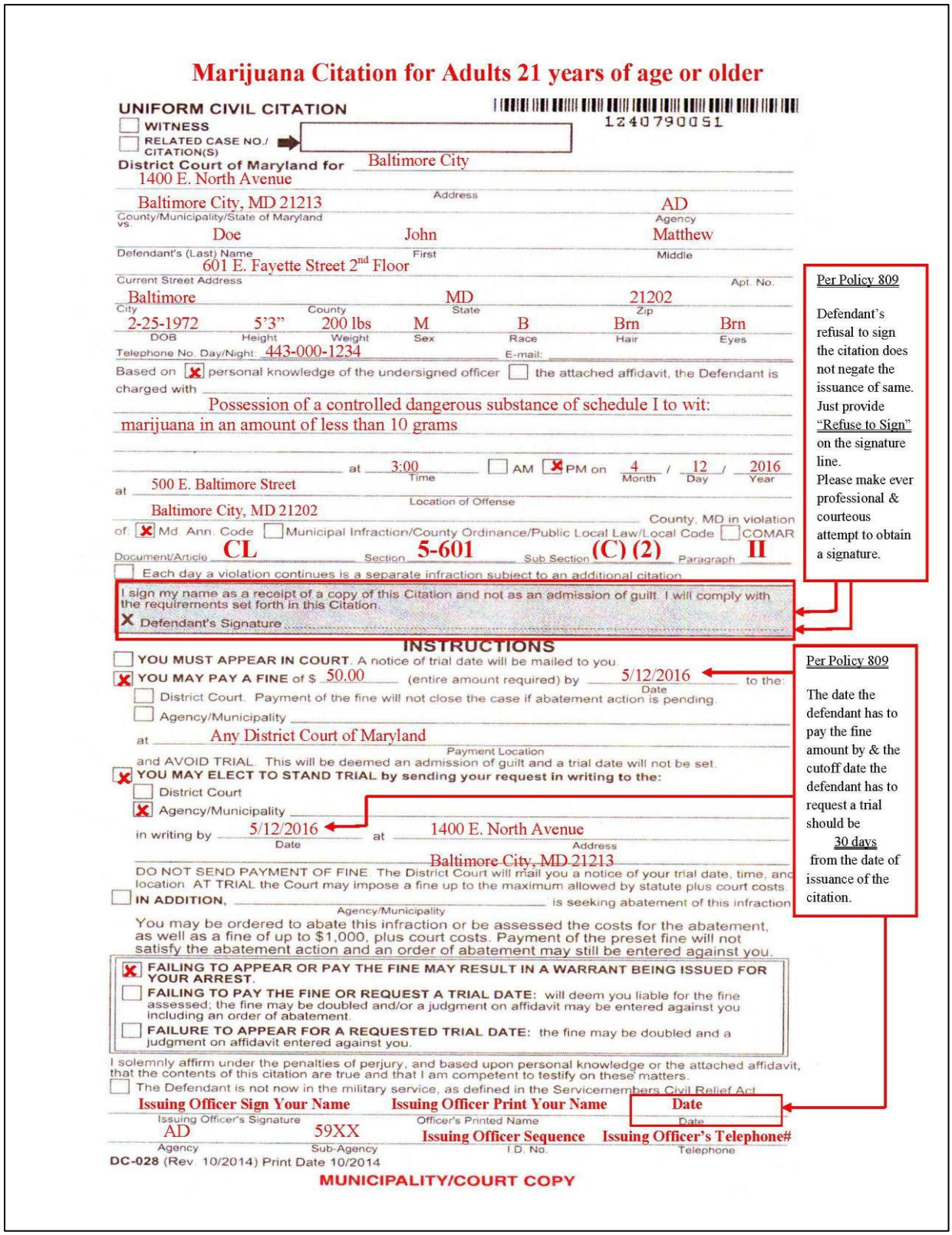
I, Jordan Wolfe, certify that I have read and understand Policy 809 and its Appendix and have no questions about the policies contained within.

Jordan Wolfe _____ *8/1/18* _____
Date

Witnessed by: *Fabian Aesop* _____ *8/1/18* _____
Date

APPENDIX A

Marijuana Civil Citation Form DC-028 (Rev. 8/2017)



Marijuana Citation for Adults 21 years of age or older

UNIFORM CIVIL CITATION 1240790051

☐ WITNESS
☐ RELATED CASE NO./ CITATION(S)

District Court of Maryland for Baltimore City
1400 E. North Avenue
Address
Baltimore City, MD 21213
County/Municipality/State of Maryland
AD
Agency

vs.
Doe — John — Matthew
Defendant's (Last) Name — First — Middle
601 E. Fayette Street 2nd Floor
Current Street Address — Apt. No.
Baltimore — MD — 21202
City — County — State — Zip
2-25-1972 — 5'3" — 200 lbs — M — B — Brn — Brn
DOB — Height — Weight — Sex — Race — Hair — Eyes
Telephone No. Day/Night: 443-000-1234 — E-mail:

Based on ☒ personal knowledge of the undersigned officer ☐ the attached affidavit, the Defendant is charged with
Possession of a controlled dangerous substance of schedule I to wit:
marijuana in an amount of less than 10 grams

at 3:00 Time ☐ AM ☒ PM on 4 Month / 12 Day / 2016 Year
at 500 E. Baltimore Street
Location of Offense
Baltimore City, MD 21202 County, MD in violation
of ☒ Md. Ann. Code ☐ Municipal Infraction/County Ordinance/Public Local Law/Local Code ☐ COMAR
Document/Article CL Section 5-601 Sub Section (C) (2) Paragraph II
☐ Each day a violation continues is a separate infraction subject to an additional citation.

I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation.
X Defendant's Signature

INSTRUCTIONS

☐ **YOU MUST APPEAR IN COURT.** A notice of trial date will be mailed to you.
☒ **YOU MAY PAY A FINE** of $ 50.00 (entire amount required) by 5/12/2016 Date to the:
☐ District Court. Payment of the fine will not close the case if abatement action is pending.
☐ Agency/Municipality
at Any District Court of Maryland
Payment Location
and AVOID TRIAL. This will be deemed an admission of guilt and a trial date will not be set.
☒ **YOU MAY ELECT TO STAND TRIAL by sending your request in writing to the:**
☐ District Court
☒ Agency/Municipality
in writing by 5/12/2016 Date at 1400 E. North Avenue Address
Baltimore City, MD 21213
DO NOT SEND PAYMENT OF FINE. The District Court will mail you a notice of your trial date, time, and location. AT TRIAL the Court may impose a fine up to the maximum allowed by statute plus court costs.
☐ **IN ADDITION,** _____ Agency/Municipality is seeking abatement of this infraction.
You may be ordered to abate this infraction or be assessed the costs for the abatement, as well as a fine of up to $1,000, plus court costs. Payment of the preset fine will not satisfy the abatement action and an order of abatement may still be entered against you.

☒ **FAILING TO APPEAR OR PAY THE FINE MAY RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.**
☐ **FAILING TO PAY THE FINE OR REQUEST A TRIAL DATE:** will deem you liable for the fine assessed; the fine may be doubled and/or a judgment on affidavit may be entered against you including an order of abatement.
☐ **FAILURE TO APPEAR FOR A REQUESTED TRIAL DATE:** the fine may be doubled and a judgment on affidavit entered against you.

I solemnly affirm under the penalties of perjury, and based upon personal knowledge or the attached affidavit, that the contents of this citation are true and that I am competent to testify on these matters.
☐ The Defendant is not now in the military service, as defined in the Servicemembers Civil Relief Act.

Issuing Officer Sign Your Name — **Issuing Officer Print Your Name** — **Date**
Issuing Officer's Signature — Officer's Printed Name — Date
AD — 59XX — **Issuing Officer Sequence** — **Issuing Officer's Telephone#**
Agency — Sub-Agency — I.D. No. — Telephone

DC-028 (Rev. 10/2014) Print Date 10/2014

MUNICIPALITY/COURT COPY

Per Policy 809

Defendant's refusal to sign the citation does not negate the issuance of same. Just provide "Refuse to Sign" on the signature line.
Please make ever professional & courteous attempt to obtain a signature.

Per Policy 809

The date the defendant has to pay the fine amount by & the cutoff date the defendant has to request a trial should be 30 days from the date of issuance of the citation.

Chesapeake County Police Dept. Policy 1112

Subject	
FIELD INTERVIEWS, INVESTIGATIVE STOPS, WEAPONS PAT-DOWNS & SEARCHES	
Date Published	**Page**
26 August 2017	**1 of 7**

By Order of the Police Commissioner

POLICY

It is the policy of the Chesapeake County Police Department (CCPD) to conduct any interaction with individuals in a respectful manner and within the confines of the law, while maintaining public and officer safety. The BPD will accomplish this policy objective by adhering to the following guidelines:

1. **Constitutional Stops**. Following the United States Supreme Court decision in Terry v. Ohio, 392 U.S. 1 (1968), which established that law enforcement officers can, consistent with the 4th Amendment to the Constitution, stop individuals when there is reasonable articulable suspicion to believe that they have committed, are committing, or are about to commit a crime, and can perform a weapons pat-down of their outer garments for weapons when there is reasonable articulable suspicion to believe they are armed and dangerous.

2. **Reasonable Articulable Suspicion and Probable Cause**. Understanding that an investigative stop, weapons pat-down, and a search are distinct and separate actions. Officers must be able to clearly document reasonable articulable suspicion for an investigative stop, the reasonable articulable suspicion for a weapons pat-down, and the probable cause for a search. An investigative stop does not automatically justify a weapons pat-down or a search.

3. **Documentation**. Properly documenting all investigative stops, weapons pat-downs, and searches, in accordance with state and federal law.

DEFINITIONS

Field Interview — Conduct that places the officer in a consensual face-to-face communication with a person under circumstances in which the person does not have to respond to questions and is free to leave.

Investigative Stop — A physical or verbal action that involves the delay, hindrance, or holding of a person. Investigative stops can only be done if an officer has reasonable articulable suspicion that the individual has committed, is committing, or is about to commit a crime. This suspicion can be based on facts observed by the officer, observations reported by trustworthy informants, and other factors that take into account the totality of the circumstances of the investigative stop.

Weapons Pat-Down — A hand pat-down of a person's outer-garments for weapons. A weapons pat-down should be done only if the officer has reasonable articulable suspicion that the individual has a concealed weapon and poses a threat to the public or the officer. This type of search is confined in scope to an intrusion reasonably designed only to discover weapons.

Search — More intrusive than a weapons pat-down and done only if probable cause exists.

Reasonable Articulable Suspicion (RAS) – Reason to believe, based on the officer's training and experience, that an individual has committed, is committing or is about to commit a crime. RAS requires articulable facts (more than a hunch), but less than probable cause.

Probable Cause – Where facts and circumstances, known to the officer and taken as a whole, would lead a reasonable person to believe that a particular individual has committed, is committing or is about to commit a crime.

REQUIRED ACTION

Required Actions for Members

Officers must act professionally and respectfully during all encounters with members of the public and must properly document these interactions. A quick reference chart is provided below to assist officers in determining the legal and minimum reporting requirements for each type of contact.

	LEGAL REQUIREMENTS		MINIMUM FORMS REQUIREMENT		
TYPE OF CONTACT	**Reasonable Articulable Suspicion**	**Probable Cause**	**Citizen/Police Contact Receipt**	**Form 309**	**Incident Report**
Field Interview			X		
Vehicle Stop	X		X		
Investigative Stop	X			X	X
Weapons Pat-Down	X			X	X
Searches		X		X	X
Arrest		X			X

3.1. Field Interviews

3.1.1. An officer may initiate consensual field interviews when he/she reasonably believes that an investigation is warranted. Examples of field interviews include, but are not limited to:

- A witness who is questioned by an officer regarding observations of, and circumstances surrounding, a crime.
- When an officer approaches an individual and asks his/her name, address, purpose for being at a certain location, and any pertinent follow-up questions.

3.1.2. The following guidelines should be followed when conducting a field interview:

- While an officer may initiate a field interview for any legitimate, police-related purpose, interviews shall not be conducted in a hostile or aggressive manner, or as a means of harassing any individual or attempting to coerce an individual to do anything (e.g. leave the area, consent to a search, etc.). The individual is free to end the interview at any time and to refuse to answer the officer's questions.

- When an individual refuses to answer questions during a field interview, he/she must be permitted to leave. Furthermore, refusal to answer questions cannot be used as the basis to escalate the encounter into an investigative stop, weapons pat-down, or search.

- Officers must remember that individuals are neither required to carry any means of identification nor can individuals be required to account for their presence in a public place.

- The duration of the field interview should be as brief as possible. The success or failure of a meaningful interview rests on the officer's ability to put the individual at ease and establish a rapport.

- All field interviews require the completion and issuance of a Citizen/Police Contact Receipt.

NOTE: A traffic stop is not considered a field interview because the operator, who has been stopped for reasonable suspicion, is not free to leave until the completion of the traffic stop. The driver shall be issued a Citizen/Police Contact Receipt in keeping with this policy.

3.2. **Investigative Stops**

3.2.1. In determining whether reasonable articulable suspicion exists to justify an investigative stop, officers should include but not be limited to consideration of the following factors under the totality of the circumstances:

- Visual indications that suggest the individual is carrying a firearm or other deadly weapon, such as a bulge under the individual's clothing.

- Informant tips and information.

- Observations of what appears to be criminal conduct based on experience.

- Furtive behavior.

- Lateness of hour.

- Presence in a high crime area.

- Evasive conduct or unprovoked flight.

NOTE: One factor alone is often not sufficient to establish reasonable suspicion. This list is not all inclusive and circumstances will vary in each case.

3.2.2. When conducting an investigative stop, officers must:

- Remain courteous and respectful at all times, but maintain caution and vigilance.
- Before approaching more than one suspect, determine whether the circumstances warrant a request for backup assistance and whether the investigative stop can and should be delayed until such backup arrives.
- Limit questions to those concerning the suspect's identity, place of residence, and other inquiries necessary to resolve the officer's suspicions.
- Ensure that the person is stopped for only that period of time necessary to effect the purpose of the stop.
- Notify a supervisor if the individual is:
    - Injured during the investigative stop or complains of injury;
    - Transported from the initial place of contact;
    - Stopped more than 20 minutes; or
    - Handcuffed and/or subjected to an arrest and control technique.
- If the individual stopped is to be released:
    - Immediately release the individual and explain the reason for the investigative stop and the release.
    - Provide transportation if the individual was taken from the initial scene of the stop.

3.2.3. Following an investigative stop:

- A central complaint number must be issued from the Communications Unit, and a Crime Incident Report must be completed. Officers should describe in detail the circumstances which led to the investigative stop.
- The officer must provide the individual with an explanation of the purpose of the stop, and provide Form 309 to the individual with the officer's name, the date, and central complaint number.

3.3. Weapons Pat-Down

3.3.1. If, during a field interview or an investigative stop, reasonable articulable suspicion exists that the individual has a concealed weapon and poses a threat to the public or the officer, the officer may conduct a weapons pat-down.

3.3.2. In determining whether reasonable articulable suspicion exists sufficient to support the weapons pat-down, an officer should consider the following factors:

- The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- The number of individuals to be handled by a single officer.
- The hour of the day and the location where the stop takes place.
- Prior knowledge of the individual's criminal history and propensity to use force or carry deadly weapons.
- The appearance and demeanor of the individual.
- Visual indications that suggest the individual is carrying a firearm or other deadly weapon, such as a bulge under the individual's clothing.
- Furtive behavior.

3.3.3. Officers must follow these guidelines when performing a weapons pat-down:

- A weapons pat-down shall not be used to conduct full searches designed to produce evidence or other incriminating material. Full searches of individuals conducted without probable cause are illegal and prohibited by this policy.
- Whenever possible, weapons pat-downs should be conducted by at least two officers: one who performs the pat-down and another who provides protective cover.
- Whenever practicable, weapons pat-downs should be performed by officers of the same gender of the individual who is stopped.
- Officers are permitted only to pat the outer clothing of the individual. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club, or other item. The officer may not manipulate an object underneath clothing in an effort to determine the nature of the object.
- If the officer feels an item and believes it could be a weapon used to harm the officer or others, the officer may reach into the article of clothing and remove the item.
    - If, during the process of removing the suspected weapon, the officer discovers other items which are contraband or evidence of a crime, the officer may lawfully seize those items, and the items may be considered when establishing probable cause to make an arrest or to conduct a search of the individual.
- If the individual is carrying an object such as a handbag, suitcase, briefcase, sack, or other object that may conceal a weapon, the officer should not open the object but instead place it out of the individual's reach.

- If the officer reasonably suspects that harm may result if the unsearched object is returned to the individual, the officer may briefly feel the exterior of the object in order to determine if the object contains a weapon or other dangerous item. The officer may not manipulate the exterior or search the interior of the object in question.

3.3.4. The officer must notify a supervisor if the stopped individual is:

- Injured during the investigative stop or weapons pat-down or complains of injury;
- Transported from the initial place of contact;
- Stopped more than 20 minutes; or
- Handcuffed and/or subjected to an arrest and control technique.

3.3.5. If the individual stopped is to be released because no weapon was found, and there is no probable cause for a search or an arrest, the officer must:

- Immediately release the person and explain the reason for the investigative stop, the weapons pat-down, and the release.
- Obtain a central complaint number from the Communications Unit and complete a Crime Incident Report. The officer must describe in detail the circumstances which lead to the weapons pat-down.
- Provide Form 309 to the individual with the officer's name, the date and central complaint number.

3.3.6. If the individual stopped is arrested because a weapon was found, a search, incident to arrest, may be conducted in accordance with departmental training and procedures.

- The officer must complete any related incident reports and submit to a supervisor. The completed reports should make it clear that the arrest was the result of an investigative stop/weapons pat-down.

Required Actions for Superiors

1. The Commanding Officer, Professional Development and Training Academy, will:

1.1. Ensure that the procedures of this policy are consistent with entrance level and in- service training curricula.

1.2. Provide ongoing roll call training on the contents and subject of this policy.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Commanders are responsible for informing their subordinates of this policy and ensuring compliance.

CERTIFICATE OF UNDERSTANDING

I, Jordan Wolfe, certify that I have read and understand Policy 1112 and have no questions about the policies contained within.

Jordan Wolfe _____ *8/1/18* _____
Date

Witnessed by: *Fabian Aesop* _____ *8/1/18* _____
Date

EXHIBIT 8- VAL VILLAGER'S REPORTER NOTES

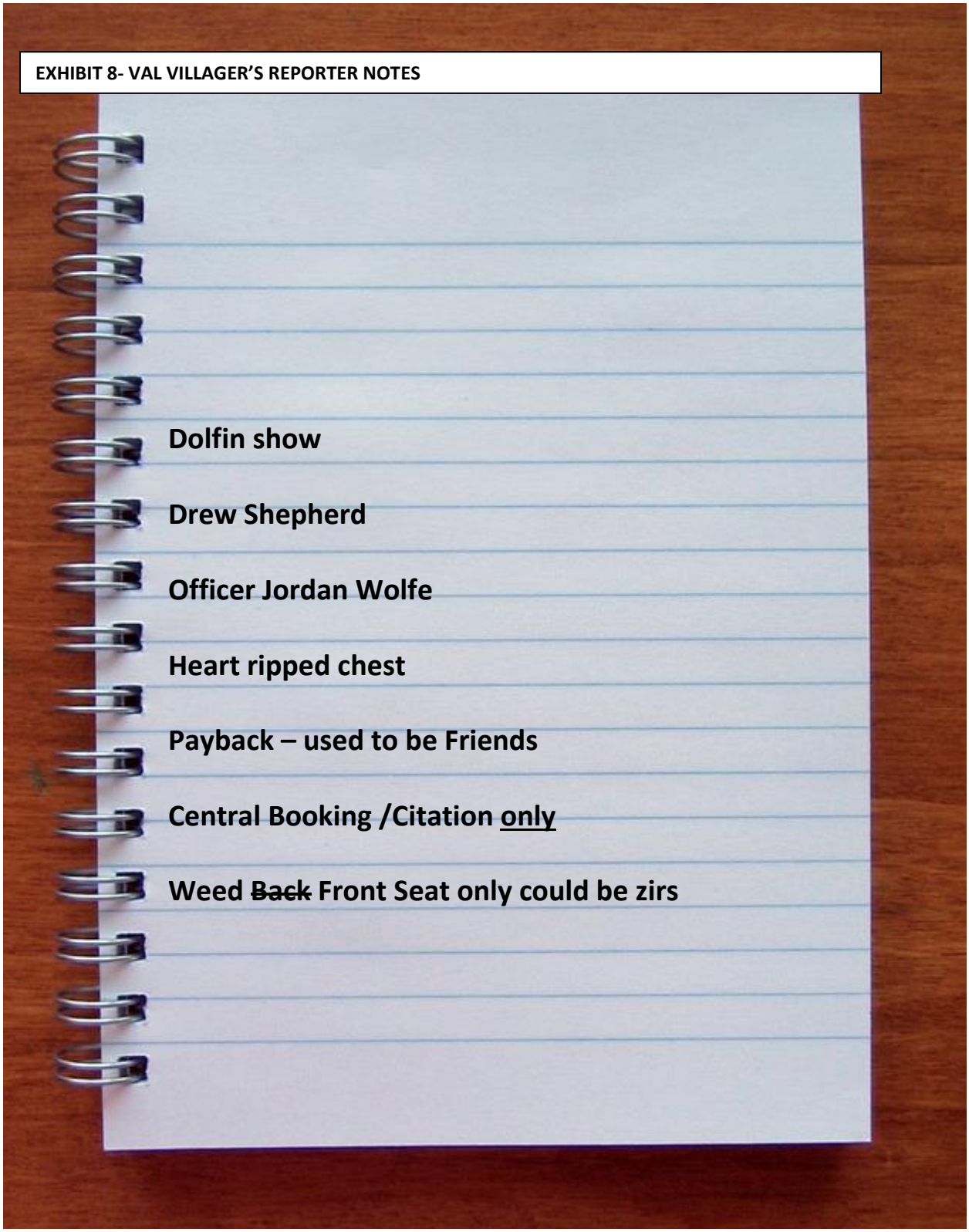


EXHIBIT 9- CHANNEL 4 NEWS TRANSCRIPT

https://www.bayretriever4news.com/news/crime/checker/chesapeake-county-crime/probable-cause-or-payback?

Channel 4

Bay Retriever

News

Probable Cause or Payback?

Posted: 11:50 p.m. September 2, 2019
By: Val Villager
A Chesapeake County officer is being accused tonight of using zis powers to get revenge.

Drew Shepherd, 22, had tickets to see a once in lifetime show. Instead, ze spent the better part of tonight behind bars for absolutely nothing.

"I felt like my heart was being ripped out of my chest," Shepherd said. "This officer knew what ze did was wrong. Everything ze did had the stink of payback."

Shepherd was set to attend tonight's big concert, the Dolfin show. But not just any Dolfin show. Their very last show on their Farewell tour. Shepherd came to the show like everyone else; ready to make memories. But zis dream night turned quickly into a nightmare.

Shepherd told us that, just prior to the show beginning, ze recognized an old familiar face from high school. "We used to be friends." The next thing ze knew, Chesapeake County Police Officer Jordan Wolfe was arresting Drew and taking zim to Central Booking where a Chesapeake County Commissioner ultimately released Drew without charges because there was no probable cause to charge zim with any crimes. And what was Drew's reward for a quick victory in zis criminal case? Getting slapped with a civil citation for Marijuana Possession.

"I was told by the people at Central Booking that the Officer applied for criminal charges against me for Possession of Marijuana because something like a tiny amount of Marijuana was found in the front seat of my car and that the Commissioner denied charging me with it. When Officer Wolfe gave me the civil citation for Marijuana possession, I asked zim why was ze doing this to me? Ze told me that I should have done a better job of choosing my friends."

"I'll never get tonight back. Dolfin will never perform again. Biggest show ever and I missed it all, had to sit in jail instead, because of Officer Wolfe who is getting me back for who knows what reason. Terrible!"

No comment yet from Chesapeake County Police. We'll continue to update this story as it develops.

MCPJI 15:6 False Arrest--Definitions

a. False Arrest

False arrest is an arrest made without legal justification and without consent.

b. Arrest

An arrest is the restraint or detention of a person by touching or by any act indicating an intention to take the person into custody and that subjects the person to the actual control and will of the individual making the arrest.

c. Probable Cause

Probable Cause is knowledge of facts and circumstances that would lead a reasonable person to believe the plaintiff had committed the offense.

d. Legal Justification

Legal justification means that the law authorizes or permits a person to arrest or restrict the freedom of movement of another.

e. Malice

A defendant acts with malice if considering the circumstances, the defendant's conduct was motivated by ill will or by an improper motive.

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MCPJI 15:8 False Arrest--Detention for Investigation

A police officer acting within the scope of the officer's duties is not liable for false arrest if the officer acted without actual malice.

MCPJI 15:10 Arrest Without a Warrant--Police Officer

A police officer has legal justification to make a warrantless arrest if:

(1) the arrested person commits or attempts to commit a felony or misdemeanor in the presence or view of the officer; or

(2) the police officer has probable cause to believe that a felony or misdemeanor is being committed in the officer's presence or view, and the officer reasonably believes the arrested person committed the crime; or

(3) The police officer has probable cause to believe that a felony was committed or attempted, and the person arrested committed or attempted to commit the felony.

MCPJI 12:1 Defamation--Generally

A defamatory statement is a false statement about another person that exposes that person to public scorn, hatred, contempt, or ridicule, thereby discouraging others in the community from having a good opinion of, or from associating or dealing with, that person.

Defamation may result from a statement communicated to a third person either orally or in writing.

MCPJI 12:2 Defamation--Private Figure

A statement made about a private figure is defamatory only if the party making the statement should have known that the statement was false.

Comment

A. Elements:

1. Elements of the tort of defamation in cases involving a plaintiff who is not a public figure are: (1) that the defendant made a defamatory communication (i.e., that he communicated a statement tending to expose the plaintiff to public scorn, hatred, contempt, or ridicule to a third person who reasonably recognized the statement as being defamatory), (2) that the statement was false, (3) that the defendant was at fault in communicating the statement, and (4) that the plaintiff suffered harm. Carter v. Aramark Sports & Entm't Servs., Inc., 153 Md. App. 210 (2003).

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MCPJI 12:4 False Statement--Defined

A false statement is a statement that is substantially incorrect. Minor errors do not make a statement false if the substance or main thrust of the statement is true.

MCPJI 12:6 Actual Damages

A person who is the subject of a defamatory statement that was not made with actual malice must show actual damages in the form of financial loss, injury to reputation, mental anguish, or some other tangible injury, in order to obtain relief.

MCPJI 12:8 Exemplary or Punitive Damages

A person who is the subject of a defamatory statement may be allowed punitive damages if the defendant published the defamatory statement with actual knowledge that it was false.

MCPJI 12:11 Injurious Falsehood Amounting to Defamation

Damages are presumed from a statement that is reasonably understood to reflect not only on one's rights to [or quality of] land, property, or intangible thing but also reflects unfavorably on that person's business reputation, business integrity or on that person's profession or business.

MCPJI 1:14 Burden of Proof-Preponderance of Evidence Standard

The party who asserts a claim (of False Arrest and Defamation) or affirmative defense has the burden of proving it by what we call the preponderance of the evidence.

In order to prove something by a preponderance of the evidence, a party must prove that it is more likely so than not so. In other words, a preponderance of the evidence means such evidence which, when considered and compared with the evidence opposed to it, has more convincing force and produces in your minds a belief that it is more likely true than not true.

In determining whether a party has met the burden of proof you should consider the quality of all of the evidence regardless of who called the witness or introduced the exhibit and regardless of the number of witnesses which one party or the other may have produced.

If you believe that the evidence is evenly balanced on an issue, then your finding on that issue must be against the party who has the burden of proving it.

Maryland Criminal and Transportation Statutes

Maryland Code Annotated, Criminal § 5-601

(a) In general. -- Except as otherwise provided in this title, a person may not:

(1) possess or administer to another Marijuana, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain Marijuana, or procure or attempt to procure the administration of Marijuana by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) the counterfeiting or alteration of a prescription or a written order;

(iii) the concealment of a material fact;

(iv) the use of a false name or address;

(v) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(vi) making, issuing, or presenting a false or counterfeit prescription or written order.

(b) Information not privileged. -- Information that is communicated to a physician in an effort to obtain Marijuana in violation of this section is not a privileged communication.

(c) Penalty; mitigating factors; substance abuse programs. --

(2)

(i) Except as provided in subparagraph (ii) of this paragraph, a person whose violation of this section involves the use or possession of Marijuana is guilty of a misdemeanor of possession of Marijuana and is subject to imprisonment not exceeding 6 months or a fine not exceeding $ 1,000 or both.

(ii)

1. A first finding of guilt under this section involving the use or possession of less than 10

grams of marijuana is a civil offense punishable by a fine not exceeding $ 100.

2. A second finding of guilt under this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding $ 250.

3. A third or subsequent finding of guilt under this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding $ 500.

4. A. In addition to a fine, a court shall order a person under the age of 21 years who commits a violation punishable under subsubparagraph 1, 2, or 3 of this subparagraph to attend a drug education program approved by the Maryland Department of Health, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. In addition to a fine, a court shall order a person at least 21 years old who commits a violation punishable under subsubparagraph 3 of this subparagraph to attend a drug education program approved by the Maryland Department of Health, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

LexisNexis

C. A court that orders a person to a drug education program or substance abuse assessment or treatment under this subsubparagraph may hold the case sub curia pending receipt of proof of completion of the program, assessment, or treatment.

(3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "Caregiver" means an individual designated by a patient with a debilitating medical condition to provide physical or medical assistance to the patient, including assisting with the medical use of marijuana, who:

A. is a resident of the State;

B. is at least 21 years old;

C. is an immediate family member, a spouse, or a domestic partner of the patient;

D. has not been convicted of a crime of violence as defined in § 14-101 of this article;

E. has not been convicted of a violation of a State or federal controlled dangerous substances law;

F. has not been convicted of a crime of moral turpitude;

G. has been designated as caregiver by the patient in writing that has been placed in the patient's medical record prior to arrest;

H. is the only individual designated by the patient to serve as caregiver; and

I. is not serving as caregiver for any other patient.

4. "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician-patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

F. any other condition that is severe and resistant to conventional medicine.

(ii)

1. In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

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2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, the court shall dismiss the charge.

(iii) 1. In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician-patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. In a prosecution for the possession of marijuana under this section, it is an affirmative defense that the defendant possessed marijuana because the marijuana was intended for medical use by an individual with a debilitating medical condition for whom the defendant is a caregiver.

B. A defendant may not assert the affirmative defense under this subsubparagraph unless the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with all documentation in support of the affirmative defense in accordance with the rules of discovery provided in Maryland Rules 4-262 and 4-263.

3. An affirmative defense under this subparagraph may not be used if the defendant was:

A. using marijuana in a public place or assisting the individual for whom the defendant is a caregiver in using the marijuana in a public place; or

B. in possession of more than 1 ounce of marijuana.

(4) A violation of this section involving the smoking of marijuana in a public place is a civil offense punishable by a fine not exceeding $ 500.

(d) Effect of (c)(2)(ii) on other laws. -- The provisions of subsection (c)(2)(ii) of this section making the possession of marijuana a civil offense may not be construed to affect the laws relating to:

(1) operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance; or

(2) seizure and forfeiture.

(e) Assessment for substance use disorder; treatment. --

(1)

(i) Before imposing a sentence under subsection (c) of this section, the court may order the Maryland Department of Health or a certified and licensed designee to conduct an assessment of the defendant for substance use disorder and determine whether the defendant is in need of and may benefit from drug treatment.

(ii) If an assessment for substance use disorder is requested by the defendant and the court denies the request, the court shall state on the record the basis for the denial.

(2) On receiving an order under paragraph (1) of this subsection, the Maryland Department of Health, or the designee, shall conduct an assessment of the defendant for substance use disorder and provide the results to the court, the defendant or the defendant's attorney, and the State identifying the defendant's drug treatment needs.

(3) The court shall consider the results of an assessment performed under paragraph (2) of this subsection when imposing the defendant's sentence and:

(i) except as provided in subparagraph (ii) of this paragraph, the court shall suspend the execution of the sentence and order probation and, if the assessment shows that the defendant is in need of substance abuse treatment, require the Maryland Department of Health or the designee to provide the medically appropriate level of treatment as identified in the assessment; or

(ii) the court may impose a term of imprisonment under subsection (c) of this section and order the Division of Correction or local correctional facility to facilitate the medically appropriate level of treatment for the defendant as identified in the assessment.

Maryland Code Annotated, Criminal § 5-601.1

(a) In general. -- A police officer shall issue a citation to a person who the police officer has probable cause to believe has committed a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana.

(b) Civil offense. --

(1) A violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana is a civil offense.

(2) Adjudication of a violation under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana:

(i) is not a criminal conviction for any purpose; and

(ii) does not impose any of the civil disabilities that may result from a criminal conviction.

(c) Contents. --

(1) A citation issued for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana shall be signed by the police officer who issues the citation and shall contain:

(i) the name, address, and date of birth of the person charged;

(ii) the date and time that the violation occurred;

(iii) the location at which the violation occurred;

(iv) the fine that may be imposed;

(v) a notice stating that prepayment of the fine is allowed, except as provided in paragraph (2) of this subsection; and

(vi) a notice in boldface type that states that the person shall:

1. pay the full amount of the preset fine; or

2. request a trial date at the date, time, and place established by the District Court by writ or trial notice.

(2)

(i) If a citation for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana is issued to a person under the age of 21 years, the court shall summon the person for trial.

(ii) If the court finds that a person at least 21 years old who has been issued a citation under this section has at least twice previously been found guilty under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana, the court shall summon the person for trial.

(d) Form. -- The form of the citation shall be uniform throughout the State and shall be prescribed by the District Court.

(e) Schedule for prepayment of fine. --

(1) The Chief Judge of the District Court shall establish a schedule for the prepayment of the fine.

(2) Prepayment of a fine shall be considered a plea of guilty to a Code violation.

(3) A person described in subsection (c)(2) of this section may not prepay the fine.

(f) Request for trial. --

(1) A person may request a trial by sending a request for trial to the District Court in the jurisdiction where the citation was issued within 30 days of the issuance of the citation.

(2) If a person other than a person described in subsection (c)(2) of this section does not request a trial or prepay the fine within 30 days of the issuance of the citation, the court may impose the maximum fine and costs against the person and find the person is guilty of

a Code violation for purposes of subsection (c)(2)(ii) of this section.

(g) Forwarding citation and request to district court. -- The issuing jurisdiction shall forward a copy of the citation and a request for trial to the District Court in the district having venue.

(h) Failure to respond to summons; failure to appear after request for trial. --

(1) The failure of a defendant to respond to a summons described in subsection (c)(2) of this section shall be governed by § 5-212 of the Criminal Procedure Article.

(2) If a person at least 21 years old fails to appear after having requested a trial, the court may impose the maximum fine and costs against the person and find the person is guilty of a Code violation for purposes of subsection (c)(2)(ii) of this section.

(i) Burden of proof; evidentiary standards. -- In any proceeding for a Code violation under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana:

(1) the State has the burden to prove the guilt of the defendant by a preponderance of the evidence;

(2) the court shall apply the evidentiary standards as prescribed by law or rule for the trial of a criminal case;

(3) the court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;

(4) the defendant is entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses on behalf of the defendant, and to testify on the defendant's own behalf, if the defendant chooses to do so;

(5) the defendant is entitled to be represented by counsel of the defendant's choice and at the expense of the defendant; and

(6) the defendant may enter a plea of guilty or not guilty, and the verdict of the court in the case shall be:

(i) guilty of a Code violation;

(ii) not guilty of a Code violation; or

(iii) probation before judgment, imposed by the court in the same manner and to the same extent as is allowed by law in the trial of a criminal case.

(k) Prosecution. --

(1) The State's Attorney for any county may prosecute a Code violation under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana in the same manner as prosecution of a violation of the criminal laws of the State.

(2) In a Code violation case under § 5-601 of this part involving the use or possession of less than 10 grams of marijuana, the State's Attorney may:

(i) enter a nolle prosequi or move to place the case on the stet docket; and

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(ii) exercise authority in the same manner as prescribed by law for violation of the criminal laws of the State.

(l) Applicability of procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article. -- A person issued a citation for a violation of § 5-601 of this part involving the use or possession of less than 10 grams of marijuana who is under the age of 18 years shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

Maryland Code Annotated, Criminal § 5-602

(a) Except as otherwise provided in this title, a person may not:

(1) distribute or dispense a marijuana; or

(2) possess marijuana in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense marijuana.

(b) Penalty

(1) A person who violates a provision of § 5-602 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $ 15,000 or both.

Maryland Code Annotated, Transportation § 21-902.

(c) Driving while impaired by drugs or drugs and alcohol; penalties for violations.

(i) A person may not drive or attempt to drive any vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely.

(ii) A person convicted of a violation of this paragraph is subject to:

1. For a first offense, imprisonment not exceeding 2 months or a fine not exceeding $ 500 or both;

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2. For a second offense, imprisonment not exceeding 1 year or a fine not exceeding $ 500 or both; and

3. For a third or subsequent offense, imprisonment not exceeding 3 years or a fine not exceeding $ 3,000 or both.

(d) Driving while impaired by controlled dangerous substance; penalties for violations.

(i) A person may not drive or attempt to drive any vehicle while the person is impaired by any controlled dangerous substance, as that term is defined in § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

(ii) A person convicted of a violation of this paragraph is subject to:

1. For a first offense, imprisonment not exceeding 1 year or a fine not exceeding $ 1,000 or both;

2. For a second offense, imprisonment not exceeding 2 years or a fine not exceeding $ 2,000 or both; and

3. For a third or subsequent offense, imprisonment not exceeding 3 years or a fine not exceeding $ 3,000 or both.

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Taylor v. State
Court of Appeals of Maryland
*** 346 Md. 452 (1997)**

Prior History: Certiorari to the Court of Special Appeals (Circuit Court for Worcester County). Thomas C. Groton, III, JUDGE.

Judges: ARGUED BEFORE Bell, C.J.; Eldridge, Rodowsky, Chasanow, Karwacki, Raker, and Wilner, JJ. Opinion by Raker, J.

Opinion by: RAKER

Opinion

[*454] Petitioner, Richard Jamison Taylor, was convicted of possession of marijuana in violation of Maryland Code (1957, 1996 Repl. Vol.) Art. 27, § 287. [1] He argues that the evidence was insufficient to sustain his conviction. We agree and therefore shall reverse.

We shall set forth the evidence in some detail as our holding is based on the insufficiency of the evidence to sustain the conviction. Petitioner was charged with possession of marijuana. A co-defendant, Kristopher Klein, was charged with possession of marijuana and possession of paraphernalia. They were jointly tried in the Circuit Court for Worcester County in a bench trial. Klein was acquitted. [2]

The charges arose from the following incident. On the morning of June 10, 1995, Petitioner, along with four friends, rented a room at the Days Inn Motel in Ocean City, Maryland. On that morning, Ocean City Police Officer Bernal and another **[*455]** officer went to the motel in response to a complaint about a possible controlled dangerous substance violation. The manager told the officers that the problem was in Room 306, the room occupied by Petitioner and four other people. The two officers and the manager went to the room, where they smelled marijuana coming from the room. While the officers were standing outside of the door, two of the occupants of Room 306 arrived, Kristopher Klein and a juvenile named Brandy. [3] At Officer Bernal's direction, Klein knocked on the door to the room and Chris Myers, one of the occupants, admitted them. Officer Bernal asked if marijuana was being smoked in the room and Myers said no. The officer then requested permission to search for "dope;" Myers told him that he could search, but he would not find anything. When they entered the room, Taylor was lying on the floor with his head turned away from the door. Officer Bernal testified that he could not tell whether Taylor was asleep or awake. In addition to Taylor and Myers, the officers also found Jessica, another juvenile female, in the room. [4] There were clouds of smoke in the room that smelled like marijuana.

Officer Bernal told Myers that he intended to search the room thoroughly, and again asked if there was any marijuana in the room. Myers walked over to a carrying bag, pulled out a baggie of marijuana, and told the officer that it was his marijuana. Officer Bernal asked Myers if that was all the marijuana in the room, and Myers told him yes. Myers was then arrested.

Officer Bernal then began to search the room. Contrary to his prior statement that there was no more marijuana in the room, Myers told Officer Bernal that there was also marijuana located in a multi-colored bag, and Officer Bernal found another baggie of marijuana in the

[1] Hereinafter all statutory citations shall be to Maryland Code (1957, 1996 Repl. Vol.) Article 27.

[2] Klein was charged with possession of a controlled dangerous substance (marijuana) and possession of paraphernalia (rolling papers). He was acquitted of both charges. The trial court explained that Klein was acquitted of possession of the paraphernalia because the State did not prove intent to use the paraphernalia. On the possession of marijuana charge, the prosecutor told the court: "It's true he wasn't in the room, so I guess I would wave the white flag of surrender on the possession of CDS charge."

[3] Because Brandy was a juvenile at the time of the incident in question, her surname is not revealed in the record.

[4] Jessica, who was also a juvenile at the time of the incident in question, will hereinafter be referred to by her first name only.

multi-colored bag. Inside **[*456]** Klein's wallet, which was secreted in another bag that did not belong to Petitioner, the officers also found rolling papers.

Officer Bernal then asked everyone in the room if they were smoking marijuana. He testified that Petitioner and the other occupants told him that friends who were not staying in the room had come by earlier and had smoked marijuana in their presence. [5] Although Officer Bernal smelled a strong odor of marijuana in the room, he did not see anyone smoking marijuana, the ashtrays were clean, and no marijuana was visible.

Petitioner was charged with possession of marijuana in violation of § 287. The trial court found that Petitioner was in close proximity to the marijuana; that, because people were smoking marijuana in Petitioner's presence, Petitioner "knew" there was marijuana in the room; that, because he was on the premises asleep or pretending to be asleep, he had some possessory right in the premises; and that the circumstances were sufficient to draw a reasonable inference that Petitioner was participating with others in the mutual enjoyment of the contraband. Accordingly, the trial court found Petitioner guilty and sentenced him to fifteen days in the Worcester County jail, all suspended, with two years probation and a fine. Petitioner appealed to the Court of Special Appeals, contending that the evidence was insufficient to sustain his conviction. The Court of Special Appeals affirmed in an unreported opinion. That court held that Petitioner not only knew of both **[*457]** the presence and illicit nature of the marijuana, but that "the discovery of marijuana in Myers's bags allowed for the inference that appellant knew of and had shared that supply when he was sharing the room with . . . Myers." The court further concluded that "appellant's presence in a room where marijuana had recently been smoked leads to the inference that appellant had himself smoked marijuana." We granted Taylor's petition for writ of certiorari challenging the sufficiency of the evidence.

Petitioner was convicted of possession of marijuana in violation of § 287. Possession is defined in § 277 as "the exercise of actual or constructive dominion or control over a thing by one or more persons." "Control" of a controlled dangerous substance has been defined as the exercise of a "restraining or directing influence over" the thing allegedly possessed. *See Garrison v. State*, 272 Md. 123, 142, (1974); BLACK'S LAW DICTIONARY 329 (6th ed. 1990) **[*458]** ("To exercise restraining or directing influence over"). Possession may be constructive or actual, exclusive or joint. *See State v. Leach*, 296 Md. 591, 595 (1983). Whether the possession is actual or constructive, exclusive or joint, the "evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited . . . drug in the sense contemplated by the statute, *i.e.*, that [the accused] exercised some restraining or directing influence over it." *Garrison*, 272 Md. at 142.

The State's case against Petitioner for possession of a controlled dangerous substance rested on circumstantial evidence of joint and constructive possession. A conviction can rest on circumstantial evidence alone. A conviction resting on circumstantial evidence alone, however, cannot be sustained on proof amounting only to strong suspicion or mere probability. *See Wilson v. State*, 319 Md. 530, 535-36 (1990). Circumstantial evidence may support a conviction if the circumstances, taken together, do not require the trier of fact to resort to speculation or conjecture, but circumstantial evidence which merely arouses suspicion or leaves room for conjecture is obviously insufficient. It must do more than raise the possibility or even the probability of guilt. It must . . . afford the basis for an inference of guilt beyond a reasonable doubt.

1 UNDERHILL, CRIMINAL EVIDENCE § 17, at 29

[5] Petitioner testified to a slightly different version of events. He testified at trial that he, along with Klein, Meyers, and two female juveniles, went to the hotel during the morning of June 10, 1995 and that Brandy, one of the juveniles, registered for the hotel room. He went to sleep shortly after they arrived and was asleep when Officer Bernal entered the hotel room. Petitioner denied making a statement to Officer Bernal that he observed anyone smoking marijuana. He testified that because he was asleep, he was unaware that anyone had smoked marijuana in the room. Taylor further testified that he never consented to a search of the room and that he did not know that Myers was carrying marijuana in his bags. Petitioner's account of the events of June 10 does not affect our analysis as we view the evidence in the light most favorable to the State.

(6th ed. 1973). If upon all of the evidence, the defendant's guilt is left to conjecture or surmise, and has no solid factual foundation, there can be no conviction. *Commonwealth v. White,* 422 Mass. 487 (Mass. 1996); *see also* WHARTON, WHARTON'S CRIMINAL EVIDENCE § 12, at 21-22 (14th ed. 1985)**.** In this regard, this Court has held that when the evidence equally supports two versions of events, and a finding of guilt requires speculation as to which of the two versions is correct, a conviction cannot be sustained. *Hebron v. State,* 331 Md. 219, 234 (1993); *West*, 312 Md. at 211. This, of course, does not preclude a conviction **[*459]** based on a credibility determination emanating from disputed evidence.

We agree with Taylor that, under the facts of this case, any finding that he was in possession of the marijuana could be based on no more than speculation or conjecture. The State conceded at trial that no marijuana or paraphernalia was found on Petitioner or in his personal belongings, nor did the officers observe Petitioner or any of the other occupants of the hotel room smoking marijuana. Viewing the evidence in the light most favorable to the State, Officer Bernal's testimony established only that Taylor was present in a room where marijuana had been smoked recently, that he was aware that it had been smoked, and that Taylor was in proximity to contraband that was concealed in a container belonging to another.

The record is clear that Petitioner was not in exclusive possession of the premises, and that the contraband was secreted in a hidden place not otherwise shown to be within Petitioner's control. Accordingly, a rational inference cannot be drawn that he possessed the controlled dangerous substance. *See Livingston v. State,* 317 Md. 408, 415 (1989). Possession requires more than being in the presence of other persons having possession; it requires the exercise of dominion or control over the thing allegedly possessed. *See Livingston*, 317 Md. at 415-16. Without more, Petitioner's presence in the room where marijuana had recently been smoked does not support a rational inference that Petitioner had possessed the marijuana. Furthermore, the existence of smoke in a room occupied by five people does not alone justify the inference that Petitioner was engaged in the mutual use or enjoyment of the contraband. *Cf. Wilson*, 319 Md. at 537-38 ("It is elementary that mere presence is not, *of itself*, sufficient to **[*460]** establish that that person was either a principal or an accessory to the crime.").

Knowledge is an essential ingredient of the crime of possession of marijuana. Writing for the Court, Judge Eldridge discussed the knowledge requirement of § 287 in *Dawkins v. State*, 313 Md. 638, 649 (1988):

An individual ordinarily would not be deemed to exercise 'dominion or control' over an object about which he is unaware. Knowledge of the presence of an object is normally a prerequisite to exercising dominion and control.

The evidence in this case does not establish that Taylor had knowledge of the presence of the marijuana concealed in Myers's carrying bags.

As clearly indicated by *Dawkins*, without knowledge of the presence of marijuana in the room, it is not possible for Petitioner to have exercised dominion or control over the marijuana, another required ingredient of the crime of possession. The facts and circumstances, considered in the light most favorable to the State, do not justify any reasonable inference that Petitioner had the ability to exercise, or in fact did exercise dominion or control over the contraband found in the room. Although the evidence in this case might form the basis for a strong suspicion of Petitioner's guilt, suspicion is insufficient to support a conviction. "Mere proximity to the drug, mere presence on the property where it is located, or mere association, without more, with the person who does control the drug or property on which it is found, is insufficient to support a finding of possession." *Murray v. United States,* 403 F.2d 694, 696 (9th Cir. 1969) (internal quotation marks and citations omitted). In other words, there must be additional proof of knowledge and control to sustain a conviction for possession.

Although control of marijuana may be established by evidence that a person smoked marijuana, the smoke in the hotel room does not provide the additional proof necessary to sustain Petitioner's conviction. As

discussed above, the record in this case supports merely an inference that *someone* **[*461]** smoked marijuana in the room, not that Petitioner, one of five occupants of the room, smoked marijuana.

In *Garrison*, 272 Md. 123, Judge O'Donnell, writing for the Court, extensively reviewed decisions of this Court and the Court of Special Appeals dealing with the sufficiency of evidence to support a conviction for possession. In *Garrison,* [6] police officers executed a search warrant at the home of Shirley Garrison and her husband Ernest Garrison based on probable cause that heroin was being sold from the Garrison home. Upon entering a rear bedroom, the officers saw Mr. Garrison flushing a plastic bag down the toilet. Mrs. Garrison was found in the front bedroom, where no contraband was discovered. *Garrison,* 272 Md. at 126-27. The Court held that there was insufficient evidence to support Mrs. Garrison's conviction for possession with intent to distribute heroin because there was no evidence that she was engaged in selling narcotics, she had made no inculpatory remarks, there were no "fresh needle marks" on her body, and there was no "juxtaposition between her (in the front bedroom) and contraband being jettisoned by her husband in the bathroom." *Id.* at 130-31.

We have had the opportunity to address the sufficiency of evidence in drug possession cases since *Garrison*. In *Leach*, 296 Md. 591, PCP was found in a closed container in the bedroom of a residence. There was only one bed on the premises and the trial court found that the defendant's brother lived at the residence. *Id*. at 595. Although the defendant gave the address at which the PCP was found as his own when he was booked by the police, the Department of Motor Vehicles records showed **[*463]** that he lived at that address, and he had ready access to the premises, "the fact finding that [the defendant's brother] was the occupant of the premises precluded inferring that [the defendant] had joint dominion or control . . . over everything contained anywhere in it." *Id.* at 596. Thus, even though he had ready access to the apartment, it could not be reasonably inferred that he exercised restraining or directing influence over PCP in a closed container in the bedroom. *Id.*, 463 A.2d at 874.

In *Livingston*, 317 Md. 408, this Court reversed the conviction of a passenger in the backseat of a car when two marijuana seeds were recovered from the floor in the front of the car. *Id.* at 416. The Court held:

Merely sitting in the backseat of the vehicle, [the defendant] did not demonstrate to the officer that he possessed any knowledge of, and hence, any restraining or directing influence over two marijuana seeds located on the floor in the front of the car.

Id. at 415-16.

In sum, the evidence presented in this case was insufficient to establish that Taylor was in possession of the marijuana seized from Myers's carrying bags. Taylor's presence in a room in which marijuana had been smoked, and his awareness that marijuana had been smoked, cannot permit a rational trier of fact to infer that Taylor exercised a restraining or directing influence over marijuana that was concealed in personal carrying bags of another occupant of the room. Because Petitioner was in joint rather than exclusive possession of the hotel room, his mere proximity to the contraband found concealed in a travel bag and his presence in a room containing marijuana smoke were insufficient to convict him. As this Court stated in *Johnson v. State*, 227 Md. 159, 165 (1961), "the conjectures of the trial judge might be entirely correct . . . . Nevertheless, a conviction without proof cannot be sustained."

[*464] JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED. CASE REMANDED TO THAT COURT WITH DIRECTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR WORCESTER COUNTY. COSTS IN THIS COURT AND THE COURT OF SPECIAL APPEALS TO BE PAID BY WORCESTER COUNTY.

[6] *Garrison v. State*, 272 Md. 123 (1974), has been overruled in part. In *Garrison*, the Court stated that "the State is not required to show that the accused's dominion or control over the narcotic drug was knowing and willful." *Id.* at 142. This Court has since held that knowledge is an element of possession offenses. *Dawkins v. State*, 313 Md. 638, 648-49 (1988). The portions of *Garrison* addressing sufficiency of the evidence, however, remain valid authority.

Pacheco v. State

Court of Appeals of Maryland

*** 2019 Md. Lexis 389 (2019)**

Prior History: [*1] Circuit Court for Montgomery County. Case No. 130184. Argued: October 9, 2018.

Judges: Barbera, C.J., Greene* *Adkins McDonald Watts Hotten Getty, JJ. Opinion by Barbera, C.J. McDonald and Watts, JJ., concur.

Opinion by: Barbera

Opinion

"The times they are a-changin'."

—Bob Dylan, *The Times They Are a-Changin*'

It is by now well known that the laws in Maryland and elsewhere addressing the possession and use of marijuana have changed. Those changes naturally have compelled examination of how the affected laws are to be interpreted and applied consistent with the dictates of other law including, here, the Fourth Amendment's protection against unreasonable searches and seizures.

Presented in this case is a question of first impression. That question, as framed in the brief of Petitioner Michael Pacheco, is

> whether police are authorized to arrest a person for the criminal offenses of possession of more than ten grams of marijuana and/or possession of marijuana with intent to distribute, based solely on facts indicating that the person is committing the civil offense of possession **[*3]** of less than ten grams of marijuana.

For reasons that follow, we answer that question in the negative.

I.

Facts and Procedural History

On May 26, 2016, Officers Groger and Heffley, of the Montgomery County Police Department, were conducting a "routine foot patrol" in Wheaton, Maryland. Around 10:00 p.m., they noticed what they would later describe as a "suspicious vehicle" parked behind a laundromat "in a dark parking spot . . . with the windows down. . . . and nowhere near the business itself."[1] The officers found it suspicious that someone would sit in his or her car rather than in the laundromat, which was open at the time. In Officer Heffley's experience, "people take their laundry in and they stay in the [l]aundromat," because the laundromats in the area have "free Wi-Fi . . . and TVs." As they approached the vehicle (a Chevrolet Trailblazer), Officer Groger went to the driver's side while Officer Heffley headed to the passenger's side. Officer Heffley would later testify, after having his recollection refreshed, that he was "within a foot" of the vehicle when he smelled the odor of "fresh burnt" marijuana. Officer Groger also testified that he had detected the odor of burnt marijuana. **[*4]** He said the odor was "strong" but did not specify how far away he was when he detected it. Both officers could see that Mr. Pacheco was alone and seated in the driver's seat. Officer Heffley observed a marijuana cigarette in the vehicle's center console, which he testified he knew immediately was less than ten grams. The officer asked Mr. Pacheco to give him the "joint." Mr. Pacheco complied.

Immediately thereafter, the officers ordered Mr. Pacheco to exit the vehicle and searched him. During the search, the officers discovered cocaine in Mr. Pacheco's "left front pocket." The officers then searched the vehicle, whereupon they recovered a marijuana stem and two packets of rolling papers. The officers transported Mr. Pacheco to the police station, where they issued him a

* Greene and Adkins, JJ., now retired, participated in the hearing and conference of this case while active members of this Court; after being recalled pursuant to the MD. Constitution, Article IV, Section 3A, they also participated in the decision and adoption of this opinion.

[1] Although the officers described the vehicle's position as suspicious and the hearing judge credited that testimony, the officers' body camera footage reveals that Mr. Pacheco's vehicle was parked in close proximity to other vehicles.

citation for possessing less than ten grams of marijuana and charged him with possession of cocaine with intent to distribute it.

Mr. Pacheco moved to suppress the cocaine, arguing that the officers' warrantless search of his person was illegal because, at the time of the search, the officers lacked probable cause to believe that he possessed ten grams or more of marijuana. The State countered that the odor "provided **[*5]** probable cause to search 'both the vehicle and [Mr. Pacheco].'"

At the suppression hearing, the officers differed about the basis for the arrest. Officer Heffley testified that Mr. Pacheco was arrested for possessing cocaine, stating that before the cocaine was found, no basis for an arrest existed because Mr. Pacheco only possessed a small quantity of marijuana. Officer Groger stated that he "searched Mr. Pacheco incident[] to [an] arrest [for] the fresh burnt odor of marijuana," although he acknowledged that possession of less than ten grams would be a civil offense "[i]f that was all that was recovered in the joint."

The circuit court denied the motion to suppress the cocaine. In the court's opinion, the possession of what appeared to the officers to be less than ten grams of marijuana gave them probable cause to arrest Mr. Pacheco and thereby to conduct a search of his person incident to the arrest. Mr. Pacheco then entered a conditional guilty plea, which preserved his right to withdraw the plea if he was successful in his appeal of the court's ruling on the motion to suppress.

II.

Discussion

In 2014, the General Assembly decriminalized **[*7]** possession of less than ten grams of marijuana. *Robinson v. State*, 451 Md. 94 (2017). The legislature made such possession a "civil offense" and mandated that a "police officer shall issue a citation to a person who the police officer has probable cause to believe has committed [that civil offense]." *Id.* at 97, 115 (citations omitted). Since then, courts in Maryland and others across the country have grappled with the constitutionality of searches and seizures that are based, at least in part, on the odor of marijuana. *See Norman v. State*, 452 Md. 373, *cert. denied*, 138 S. Ct. 174, (2017); *Robinson v. State*, 451 Md. 94, (2017).[2] The present case adds to that collection and provides us with another opportunity to clarify this evolving area of Fourth Amendment jurisprudence.

The Fourth Amendment, the Reasonableness Clause, and Exceptions to the Warrant Requirement

It is well settled that the Fourth Amendment to the United States Constitution prohibits "unreasonable" searches and seizures. *State v. Johnson*, 458 Md. 519, 533 (2018); *see also Maryland v. King*, 569 U.S. 435, 447 (2013) (citation omitted) ("[T]he ultimate measure of the constitutionality of a governmental search is 'reasonableness.'"). Although warrantless searches and seizures are "presumptively unreasonable," *Henderson v. State*, 416 Md. 125, 148, (2010), they may be deemed reasonable if the circumstances fall within "a few specifically established and well-delineated exceptions." *Katz v. United States*, 389 U.S. 347, 357, (1967). Whether a particular warrantless action on the part of the police is "reasonable" under the Fourth Amendment "depends 'on **[*8]** a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers.'" *Pennsylvania v. Mimms*, 434 U.S. 106, 109 (1977) (quoting *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975)). Those exceptions tend to arise "[w]hen faced with special law enforcement needs, diminished expectations of privacy, minimal intrusions, or the like." *King*, 569 U.S. at 447 (alteration in original) (quoting *Illinois v. McArthur*, 531 U.S. 326, 330 (2001)). It is the State's burden to prove the legality of a warrant-less search. *Holt v. State*, 435 Md. 443, 459 (2013).

[2] *See also State v. Perry*, 292 Neb. 708, 874 N.W.2d 36 (Neb. 2016); *People v. Zuniga*, 372 P.3d 1052, 2016 CO 52 (Colo. 2016); *Commonwealth v. Overmyer*, 469 Mass. 16, 11 N.E.3d 1054 (Mass. 2014); *State v. Ortega*, 770 N.W.2d 145 (Minn. 2009); *In re O.S.*, 2018 IL App (1st) 171765, 425 Ill. Dec. 258, 112 N.E.3d 621 (Ill. App. Ct.), *appeal denied*, 424 Ill. Dec. 839, 110 N.E.3d 189 (Ill. 2018); *State v. Brito*, 170 Conn. App. 269, 154 A.3d 535 (Conn. App. Ct.), *cert. denied*, 324 Conn. 925, 155 A.3d 755 (Conn. 2017).

This case gives rise to consideration of two exceptions to the warrant requirement of the Fourth Amendment: the so-called "automobile exception" announced in *Carroll v. United States*, 267 U.S. 132 (1925), and the search incident to arrest exception announced in *Chimel v. California*, 395 U.S. 752 (1969). *The Automobile Exception Carroll* and its progeny authorize the warrantless search of a vehicle if, at the time of the search, the police have developed "probable cause to believe the vehicle contains contraband or evidence of a crime." *Johnson*, 458 Md. at 533 (citing *United States v. Ross*, 456 U.S. 798, 799 (1982)); *see also California v. Carney*, 471 U.S. 386, 391 (1985) (stating that "[b]esides the element of mobility, less rigorous warrant requirements govern [auto-mobile searches] because the expectation of privacy with respect to one's automobile is significantly less than that relating to one's home or office"). The automobile doctrine permits the search of "every part of the vehicle and **[*9]** its contents that may conceal the object of the search." *Wyoming v. Houghton*, 526 U.S. 295, 301 (1999) (quoting *Ross*, 456 U.S. at 825). The search, however, "extends no further than the automobile itself." *Collins v. Virginia*, 138 S. Ct. 1663, 1671 (2018). "Expanding the scope of the automobile exception [beyond the vehicle] would both undervalue the core Fourth Amendment protection afforded to the home and its curtilage and 'untether' the automobile exception 'from the justifications underlying' it." *Id.* (quoting *Riley v. California*, 573 U.S. 373, 386 (2014)).

The Search Incident to Arrest Exception

The exception that authorizes a search incident to the (lawful) arrest of a person "has an ancient pedigree" and was recognized "[w]ell before the Nation's founding." *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2174 (2016). For the search to be reasonable under the Fourth Amendment, the police must be armed with probable cause to believe that the per-son subject to arrest has committed a felony or is committing a felony or misdemeanor in the presence of the police. *Maryland v. Pringle*, 540 U.S. 366, 369-70 (2003); *see also United States v. Robinson*, 414 U.S. 218, 225 (1973) ("The right without a search warrant contemporaneously to search persons lawfully arrested while committing crime and to search the place where the arrest is made in order to find and seize things connected with the crime as its fruits or as the means by which it was committed, as well as weapons and other things to effect an escape from custody, is not to **[*10]** be doubted.") (quoting *Agnello v. United States*, 269 U.S. 20, 30 (1925)). The Supreme Court has not wavered from the original justification for a search incident to arrest:

> When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. . . . There is ample justification, therefore, for a search of the arrestee's person and the area "within his immediate control"—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

Riley, 573 U.S. at 383 (alteration in original) (quoting *Chimel*, 395 U.S. at 762-63); *accord Birchfield*, 136 S. Ct. at 2174-76.

By its express terms, the condition precedent to a search incident to arrest is that the police have made a lawful custodial arrest of the person, that is, an arrest supported by probable cause that the arrestee has committed or is committing a crime. *Pringle*, 540 U.S. at 369-70; *see also Rawlings v. Kentucky*, 448 U.S. 98, 111 (1980) (stating that a search incident to **[*11]** an arrest may precede the formal arrest so long as the police already have amassed the requisite probable cause to make the arrest and the search is conducted "incident" to the arrest). Because the search is premised on probable cause to make the arrest, the first question to be considered whenever such a search has been conducted is whether the police had the requisite probable cause *before* conducting the search. *Donaldson v. State*, 416 Md. 467 (2010).

The Probable Cause Standard in Application

The vehicle and search incident to lawful arrest exceptions are similar in that both turn on whether law enforcement had probable cause to conduct the warrantless search at issue. *See Carroll*, 267 U.S. at 149 ("On reason and authority the true rule is that if the search and seizure without a warrant are made upon probable cause, that is, upon a belief, reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains that which by law is subject to seizure and destruction, the search and seizure are valid."); *Riley*, 573 U.S. at 384 ("a 'custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification.'"). **[*12]**

The probable cause standard has been described generally as a "'practical, nontechnical conception' that deals with 'the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.'" *Pringle*, 540 U.S. at 370 (quoting *Illinois v. Gates*, 462 U.S. 213, 231 (1983)). "Probable cause, moreover, is 'a fluid concept,' 'incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances.'" *McCracken v. State*, 429 Md. 507, 519-20 (2012) (quoting *Pringle*, 540 U.S. at 370-71). For that reason, "[p]robable cause does not depend on a preponderance of the evidence, but instead depends on a 'fair probability' on which a reasonably prudent person would act." *Robinson*, 451 Md. at 109 (quoting *Florida v. Harris*, 568 U.S. 237, 244 (2013)). In describing probable cause, the Supreme Court has "rejected rigid rules, bright-line tests, and mechanistic inquiries in favor of a more flexible, all-things-considered approach." *Id.* at 110 (quoting *Harris*, 568 U.S. at 244).

The authorization for and permitted scope of the search at issue is tied directly to the justification(s) for it. In that sense, the probable cause determinations for the automobile exception and the search incident to lawful arrest exception are not "in all respects identical." 2 Wayne R. LaFave, *Search and Seizure: A Treatise on the Fourth Amendment* § 3.1(b), **[*13]** at 7 (5th ed. 2012) [hereinafter "LaFave"]. Although the probable cause determination for each of these exceptions requires the same "quantum of evidence," "[e]ach re-quires a showing of probabilities as to somewhat different facts and circumstances—a point seldom made explicit in the appellate cases." *Id.* "This distinction is a critical one, . . . [and] there may be probable cause to search without probable cause to arrest, and vice-versa." *Id.* at 12; *see, e.g., Butler v. United States*, 102 A.3d 736, 741 (D.C. 2014) (noting that, prior to the legalization of marijuana in Washington D.C., "the smell of marijuana 'generally' emanating from appellant's vehicle . . . indisputably would allow the police to search the *vehicle*," but the court had "reservations" about whether the driver's *arrest* could have been upheld without the additional facts that the defendant "was the sole occupant of the vehicle" and "the aroma was of *fresh* marijuana.").

When determining whether probable cause exists for purposes of the automobile exception, courts ask whether "there is probable cause to believe the vehicle contains contraband or evidence of a crime." *Johnson*, 458 Md. at 533 (citing *Ross*, 456 U.S. at 799). However, before a person can be lawfully arrested and searched incident thereto the focus must **[*14]** be on the likelihood of the "guilt of the arrestee," LaFave at 9, and asks whether "there is probable cause to believe that the individual has committed either a felony or a misdemeanor in an officer's presence." *Donaldson*, 416 Md. at 480; *see also United States v. Humphries*, 372 F.3d 653, 659 (4th Cir. 2004) ("In the search context, the question is whether the totality of circumstances is sufficient to warrant a reasonable person to believe that contraband or evidence of a crime will be found in a particular place. Whereas in the arrest context, the question is whether the totality of the circumstances indicate to a reasonable person that a 'suspect has committed, is committing, or is about to commit' a crime.") (citations omitted).

The distinction between the two exceptions is at least in part due to the diminished expectation of privacy that justifies the automobile exception, *Carney*, 471 U.S. at 390-92, as compared to the "unique, significantly heightened" constitutional protections afforded a person to be secure in his or her body, *Houghton*, 526 U.S. at 303. Stated differently,

> [p]robable cause to believe that a person is carrying evidence does not justify a warrantless search of the person any more than probable cause to believe a

> home contains evidence justifies a warrantless search of a home. Only places or things enjoying **[*15]** a lesser expectation of privacy, such as automobiles, are vulnerable to probable-cause-based warrantless searches for the purpose of discovering and seizing evidence of crime.

State v. Funkhouser, 140 Md. App. 696, 724, (2001). The Supreme Court, in *Terry v. Ohio*, 392 U.S. 1, 25 (1968), emphasized the significant level of intrusion upon a person that is a "search incident to an arrest," in comparing that intrusion to the lesser intrusion upon the person that is a "pat down." The *Terry* Court had this to say on the subject:

> An arrest is a wholly different kind of intrusion upon individual freedom from a limited search for weapons, and the interests each is designed to serve are likewise quite different. An arrest is the initial stage of a criminal prosecution. It is intended to vindicate society's interest in having its laws obeyed, and it is inevitably accompanied by future interference with the individual's freedom of movement, whether or not trial or conviction ultimately follows.

Id. at 26.

Probable Cause in the Post-Decriminalization Era

1. *The General Assembly's decriminalization of less than ten grams of marijuana*

In 2014, citing concerns over the disproportionate number of African-Americans arrested for marijuana possession compared to whites, despite comparable usage rates, **[*16]** the General Assembly decriminalized the possession of less than ten grams of marijuana.[3] With the enactment of Maryland Code Ann., Crim. Law Article ("CL") (2002, 2012 Repl. Vol., 2014 Supp.) §§ 5-601 and 5-601.1, the possession of less than ten grams of marijuana became a civil offense. Although marijuana possession was not legalized outright, possession of less than ten grams would be from then on considered a "civil offense" and not a criminal one. *Id.*; *see also supra* note 3. The decriminalization was an effort to reduce the considerable time and resources spent on arresting, prosecuting, and adjudicating marijuana cases, which many legislators believed should not be considered criminal or, at the very least, should not be considered a high priority for the criminal justice system. *See supra* note 3.

The parties spar over the legislative history of CL §§ 5-601 and 5-601.1, but ultimately to no end insofar as it concerns the present case. The question before us is a constitutional one; consequently, the answer hinges not on what was said at a House Judiciary Committee Hearing, but rather on application of settled Fourth Amendment law to the facts and circumstances **[*17]** presented here. Relevant to that analysis are two recent decisions of this Court, *Robinson v. State*, 451 Md. 94 (2017), and *Norman v. State*, 452 Md. 373, *cert. denied*, 138 S. Ct. 174 (2017), both of which apply Fourth Amendment jurisprudence to situations implicating the decriminalization of possession of less than ten grams of marijuana. [4]

2. Robinson *and* Norman

Robinson was a consolidated appeal in which three defendants in three unrelated cases argued that the odor of marijuana emanating from their respective vehicles did not provide law enforcement with probable cause to search the vehicles. *See* 451 Md. at 98. After a thorough analysis of the relevant constitutional principles, discussed above, and application of those principles to the circumstances presented in *Robinson* in light of CL §§ 5-601 and 5-601.1, we concluded that

> a law enforcement officer has probable cause to search a vehicle where the law enforcement officer

[3] *See Criminal Law—Possession of Marijuana—Civil Offense: Hearing on S.B. 364 Before the H. Judiciary Comm.*, 2014 Reg. Sess. (Md. 2014), available at http://mgahouse.maryland.gov/mga/play/1f0ace2b889b4079bcfb85b6ba52d452/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=2926752 [https://perma.cc/V5ZW-NLPQ].

[4] Mr. Pacheco notes that both CL §§ 5-601 and 5-601.1 have been amended since he was arrested. Those amendments, however, did not change the amount of marijuana that constitutes criminal possession, nor did they change the other relevant provisions. *See* 2016 Maryland Laws Ch. 514, 6232-38 (H.B. 565) and 2016 Maryland Laws Ch. 515, 6373-75 (S.B. 1005).

> detects an odor of marijuana emanating from the vehicle, as marijuana in any amount remains contraband, notwithstanding the decriminalization of possession of less than ten grams of marijuana; and the odor of marijuana gives rise to probable cause to believe that the vehicle contains contraband or evidence of a crime.

Id. at 99; *id.* at 131-32 (stating the same).

The *Robinson* Court made clear that contraband and **[*18]** evidence of a crime are not always synonymous. *Id.* at 128-30. "Contraband" refers to "goods that are **illegal** to possess, regardless of whether possession of the goods is a crime," *id.* at 128 (emphasis in original); "evidence of a crime" is just that, regardless of the inherent "legality" of such evidence.

We stated in *Robinson* that for purposes of probable cause in the context of vehicle searches, "there is no distinction between the significance of a criminal amount of marijuana versus the significance of a noncriminal—but still illegal—amount of marijuana." *Id.* at 130. The Court identified three crimes in which the presence of the odor of marijuana and/or a marijuana cigarette could provide the requisite probable cause to believe that the vehicle contained contraband or evidence of a crime: "possession of ten grams or more of marijuana, crimes involving the distribution of marijuana, and driving under the influence of a controlled dangerous substance," none of which have been decriminalized. *Id.* at 134. Thus, the mere odor of marijuana emanating from a vehicle provides probable cause that the vehicle contains additional contraband or evidence of a crime, thereby permitting the search of the vehicle and its contents. *Id.* at 130, 134.

Shortly **[*19]** after *Robinson*, this Court in *Norman* faced, in a somewhat similar factual scenario, a different legal question: "whether a law enforcement officer who detects an odor of marijuana emanating from a vehicle with multiple occupants has reasonable articulable suspicion that the vehicle's occupants are armed and dangerous, and thus may frisk—*i.e.*, pat down—the vehicle's occupants for weapons." 452 Md. at 378. In that case, the State argued that the rationale of *Robinson* extended beyond searches of vehicles and applied to *Terry* frisks as well. We disagreed.

We explained in *Norman* that a "frisk" of a person is "different from a search of a person," both in purpose and in scope. *Id.* at 388. The purpose of a frisk[5] is to uncover weapons to ensure officer safety, and thus its scope is limited to a pat down of the vehicle's occupant(s) for weapons. *Id.* The frisk is not based on "probable cause," but instead, "reasonable suspicion" that a person is armed and dangerous. In that regard a frisk is a lesser intrusion upon the person than is a full search. The latter, a greater intrusion, requires a higher level of suspicion, *i.e.*, probable cause to believe that the person is armed or in possession of evidence of a crime. **[*20]** We held in *Norman* that the mere odor of marijuana was not sufficient to establish reasonable suspicion that "the vehicle's occupants are armed and dangerous, and thus subject to frisk." *Id.* at 411.

In *Norman*, this Court also clarified the limits of *Robinson*, stating that

> the only issue in *Robinson* was whether an odor of marijuana emanating from a vehicle provides probable cause to search the vehicle. No frisks or searches of persons were at issue in *Robinson*, and nowhere in *Robinson* did this Court imply, one way or the other, whether a frisk of a person would be permissible based on an odor of marijuana alone emanating from a vehicle.

Id.

Pertinent to the case before us, we did not mention in either *Robinson* or in *Norman*, nor need we have done so

[5] In a line of cases beginning with *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968), the Supreme Court has held that the Fourth Amendment permits a "pat-down" of an individual whom the police have lawfully stopped based on a reasonable suspicion of criminal activity, if, but only if, the police have the requisite reasonable suspicion that the person stopped is armed or dangerous. *Id.* at 30; *see also Arizona v. Johnson*, 555 U.S. 323, 326-27, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009); *Sellman v. State*, 449 Md. 526, 541-42, 144 A.3d 771 (2016).

under the facts presented in those cases, whether the lawful detection of the odor of burnt marijuana emanating from a vehicle gives rise to probable cause to arrest the occupant(s) and pursuant to such probable cause conduct a full search of the occupant(s) incident to the arrest.

The Present Case

Mr. Pacheco does not contest that the police officers had probable cause to search his vehicle based on the odor of marijuana and presence of a joint **[*21]** in the vehicle's center console. As we made clear in *Robinson*, marijuana in any amount remains contraband and its presence in a vehicle justifies the search of the vehicle. 451 Md. at 124-33. Therefore, the eventual search of Mr. Pacheco's vehicle was permissible by application of the auto-mobile doctrine.

It does not follow, however, that because the police lawfully searched Mr. Pacheco's car for contraband or evidence of the three crimes identified in *Robinson*, they likewise had the right to search his person. It is not in dispute that the only rationale offered by the State in support of the search of Mr. Pacheco was that it was a proper search "incident to his arrest." For such a search to have been reasonable under the Fourth Amendment, the officers must have possessed, *before* the search, probable cause to believe that Mr. Pacheco was committing a felony or a misdemeanor in their presence.

The Supreme Court has long held that a search incident to a lawful arrest is permissible only if the underlying arrest is lawful. *See Pringle*, 540 U.S. at 371 ("To determine whether an officer had probable cause to arrest an individual, we examine the events *lead-ing up* to the arrest, and then decide 'whether these historical facts, viewed from the **[*22]** stand-point of an objectively reasonable police officer, amount to' probable cause.") (emphasis added) (quoting *Ornelas v. United States*, 517 U.S. 690, 696 (1996)); *Smith v. Ohio*, 494 U.S. 541, 543 (1990) ("As we have had occasion in the past to observe, '[i]t is axiomatic that an incident search may not precede an arrest and serve as part of its justification.'") (quoting *Sibron v. New York*, 392 U.S. 40, 63 (1968)); *Bailey v. State*, 412 Md. 349, 375 (2010) ("In the case of a search incident to arrest, the State must show that probable cause supported a lawful arrest before the officer conducted the search."); *see also Rawlings*, 448 U.S. at 111 (stating that the search can occur either before or after the arrest so long as probable cause exists for the arrest at the time of the search).

The State wisely does not argue that the product of the search of Mr. Pacheco—the cocaine—supplied probable cause for that search. And, for his part, Mr. Pacheco concedes that if the officers had searched the car before searching him *and* they had found evidence of his commission of a crime, then they would have had the requisite probable cause to search him.[6] What we must decide, then, is whether the circumstances leading up to the officers' search of Mr. Pacheco supplied probable cause that he had committed either a felony or a misdemeanor in the officers' presence. The officers testified that **[*23]** they observed Mr. Pacheco in the driver's seat of what they further described as a "suspicious," though legally parked, vehicle. They also testified to their detection of "fresh burnt" marijuana emanating from the vehicle and the joint they observed in the center console. These facts, without more, do not meet the standard for probable cause to arrest and thereby to search Mr. Pacheco.

As we earlier mentioned, this Court, in *Robinson*, identified three crimes that the odor of marijuana may indicate are occurring: possession of ten grams or more of marijuana, possession of marijuana with the intent to distribute, or the operation of a vehicle under the influence of a controlled dangerous substance. 451 Md. at 133. The State argues that the first of these crimes—possession of ten grams or more of marijuana—is relevant here.[7]

[6] We note that the search of the vehicle following the search of Mr. Pacheco led to the recovery of two packets of rolling papers and a marijuana stem, which Officer Heffley testified had no "evidentiary value." He was correct because under CL § 5-619(c), the "use or possession of drug paraphernalia involving the use or possession of marijuana" is not criminal.

[7] Nothing in the record suggests, nor does the State argue, that Mr. Pacheco intended to distribute marijuana or was operating the vehicle while under the influence of marijuana. The only indication that Mr. Pacheco operated the vehicle at an earlier time was that he was alone and in the driver's seat when the police encountered him; moreover,

In the probable cause determination, "the experience and special knowledge of police officers who are [attempting to establish probable cause] are among the facts which may be considered." *Longshore v. State*, 399 Md. 486, 534, (2007) (alteration in original) (quoting *Wood v. State*, 185 Md. 280, 286 (1945)). "The observations of the police, how-ever, must be based on something factual." *Id.* Our research has not disclosed a case decided by this Court, nor does the **[*24]** State supply us with a case, holding that the police have probable cause to search a person incident to arrest based on facts precisely like those we have here. The officers here did not testify that in their experience and training the posses-sion of one joint—which the officers recognized clearly contained less than ten grams of marijuana[8] —supported an inference that Mr. Pacheco also possessed roughly nine and a half more grams of that substance on his person. Nor did the officers' testimony at the hearing on the suppression motion offer the court any facts that might have supported an inference that, at the moment they searched Mr. Pacheco, the officers had probable cause to arrest him.

In sum, the record before us simply does not support the conclusion that the officers had probable cause to arrest Mr. Pacheco based on the belief that he was committing, had committed, or was about to commit a crime in their presence. The facts presented by the State and credited by the hearing judge were sufficient to establish probable cause to search the vehicle based on the presence of contraband. However, little else was presented **[*25]** that addressed why this minimal amount of marijuana, which is not a misdemeanor, but rather a civil offense, gave rise to a fair probability that Mr. Pacheco possessed a criminal amount of marijuana on his person. In a different case, additional facts or testimony beyond what we have here may well have compelled a different result. But because the State bears the burden of proving that a warrantless search is nevertheless legal, we cannot say that burden was met in the present case.

III.

Conclusion

The same facts and circumstances that justify a search of an automobile do not necessarily justify an arrest and search incident thereto. This is based on the heightened expectation of privacy one enjoys in his or her person as compared to the diminished expectation of privacy one has in an automobile. The arrest and search of Mr. Pacheco was unreasonable because nothing in the record suggests that possession of a joint and the odor of burnt marijuana gave the police probable cause to believe he was in possession of a criminal amount of that substance.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED. CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR MONT-GOMERY COUNTY AND REMAND TO THAT COURT WITH INSTRUC-TIONS TO GRANT THE MOTION TO SUPPRESS. COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY MONTGOMERY COUNTY.

the record does not make clear that the police even considered him to have been under the influence of that drug.

[8] A recent analysis of federal arrest data shows that a joint typically contains .32 grams of marijuana. *See* Niraj Chokshi, *How Much Weed is in a Joint? Pot Experts have a New Estimate*, N.Y. Times (July 14, 2016), https://www.nytimes.com/2016/07/15/science/how-much-weed-is-in-a-joint-pot-experts-have-a-new-estimate.html [https://perma.cc/HPQ2-6PW6].

Mock Trial Performance Rating Form

Schools:_____vs._____
Plaintiff/Prosecution Defense

1=Fair **2=Satisfactory** **3=Good** **4=Very Good** **5=Excellent**

SCORERS: Do not use fractions. Please score as you go.
Do not wait until the conclusion of the competition to record scores.

		Prosecution/ Plaintiff	Defense
Opening Statements (5 minutes max each)			
PLAINTIFF/PROSECUTION First Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
PLAINTIFF/PROSECUTION Second Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
PLAINTIFF/PROSECUTION Third Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
DEFENSE First Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
DEFENSE Second Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
DEFENSE Third Witness	Direct & Re-Direct Examination by Attorney		
	Witness Performance on Direct/ Re-Direct		
	Cross & Re-Cross Examination by Attorney		
	Witness Performance on Cross/ Re-Cross		
Closing Arguments (7 minutes max each)			
Decorum/ Use of Objections: Students were courteous, observed courtroom etiquette, spoke clearly, demonstrated professionalism, and **utilized objections appropriately.**			
TOTAL (max points per side = 75)			
Tie Point *(Before totaling score sheet, please award one point to the team you think gave the best overall performance. This point will be used ONLY in a tie.)*			
TOTAL WITH TIE POINT (provide this score only in a tie)			

I have checked the scores and tallies, and by my signature, certify they are correct:

Presiding Judge:_____ Date:_____

Teacher Coach, D:_____ Teacher Coach, P:_____

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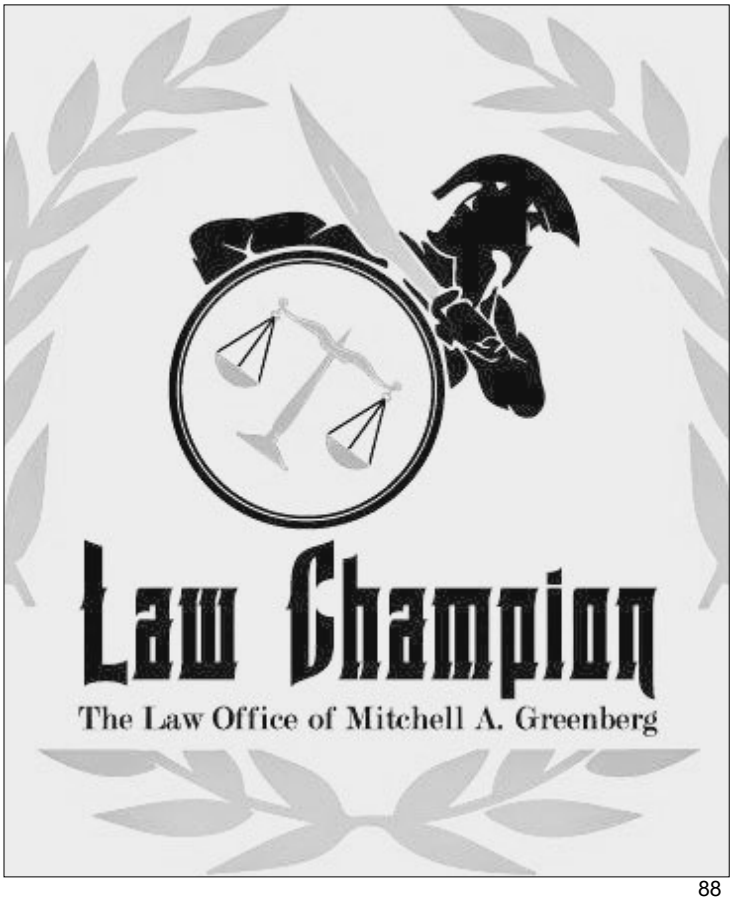

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Trucking & Warehousing
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G | J | B

Gormley Jarashow Bowman

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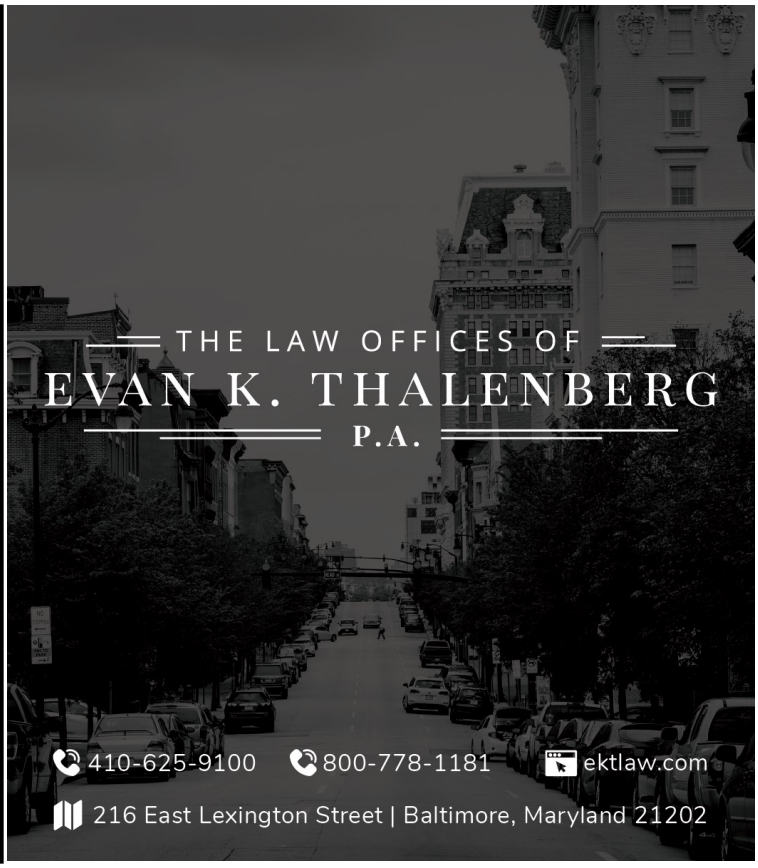
Annapolis, MD 21401
(410)268-2255

Jgblawfirm.com

We are proud to support Mock Trial!



MY LAW ACADEMY

Interested in forensics and law? Learn about criminal investigation from criminal trial attorneys and Baltimore City Police Investigators and experience, hands-on, forensic investigation through field trips to the Maryland State Office of the Forensic Medical Examiner's simulated crime scene, CitiWatch, and more!

MY Summer Law Academy coming Summer 2020 to the University of Maryland Francis King Carey School of Law!

Keep an eye on our website for dates and application information.

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Celebrating 36 years of Mock Trial State Champions!

2019: Richard Montgomery High (Montgomery County)
Beth Tfiloh, Co-Champion (Baltimore County)
2018: Allegany High School (Allegany County)
2017: The Park School (Baltimore County)
2016: Annapolis High School (Anne Arundel County)
2015: Severna Park High School (Anne Arundel County)
2014: Richard Montgomery High School (Montgomery County)
2013: Annapolis High School (Anne Arundel County)
2012: Park School of Baltimore (Baltimore County)
2011: Park School of Baltimore (Baltimore County)
2010: Severna Park High School (Anne Arundel County)
2009: Allegany High School (Allegany County)
2008: Severna Park High School (Anne Arundel County)
2007: Severn School (Anne Arundel County)
2006: Severna Park High School (Anne Arundel County)
2005: Richard Montgomery High School (Montgomery County)
2004: Park School of Baltimore (Baltimore County)
2003: Elizabeth Seton High School (Prince George's County)
2002: Towson High School (Baltimore County)
2001: DeMatha Catholic High School (Prince George's County)
2000: Broadneck High School (Anne Arundel County)
1999: Towson High School (Baltimore County)
1998: Pikesville High School (Baltimore County)
1997: Suitland High School (Prince George's County)
1996: Towson High School (Baltimore County)
1995: Pikesville High School (Baltimore County)
1994: Richard Montgomery High School (Montgomery County)
1993: Elizabeth Seton High School (Prince George's County)
1992: Oxon Hill High School (Prince George's County)
1991: Westmar High School (Allegany County)
1990: Bishop Walsh High School (Allegany County)
1989: Lake Clifton High School (Baltimore City)
1988: Pikesville High School (Baltimore County)
1987: Thomas S. Wootton High School (Prince George's County)
1986: Old Mill High School (Baltimore County)
1985: High Point High School (Prince George's County)
1984: Worcester County Schools

MYLaw is pleased to coordinate the following programs, in addition to Mock Trial:
Summer Law Academy
Baltimore City Law Links
Baltimore City Teen Court
Moot Court
Baltimore City Council Page Program
Law Day / Civics & Law Academies
For more information, please visit: www.mylaw.org or Facebook (/mylaw.org)

UMBC

UMBC MOCK TRIAL

WWW.UMBCMOCKTRIAL.COM

FAST FACTS:

- Maryland's top-ranked Mock Trial team
- Finished in the Top 15 in 2018-19 out of 750+ teams in the country
- Begins the 2019-20 season ranked in the Top 25 nationwide
- Many members competed in Maryland High School Mock Trial before coming to UMBC
- Travels to the best tournaments every year: Columbia, Virginia, Chicago, Yale, and many more!

WHO WE ARE:

- A community of inquiring minds from different backgrounds, working together as **one team**
- A team of students with different majors and diverse career goals
- A coaching staff of program alumni dedicated to helping **every student succeed**
- A program with a mission: to educate ourselves about the law and public speaking while excelling at competition

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