

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 863

September Term, 2022

MAUSEAN CARTER

v.

OFFICE OF THE STATE ATTORNEY, *et al.*

Nazarian,
Tang,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 26, 2023

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

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 2019, a jury convicted Mausean Carter, appellant, of first-degree murder, second-degree murder, three counts of attempted second-degree murder, and related handgun offenses. In 2021, appellant filed a civil complaint in the Circuit Court for Baltimore City against the Office of the State’s Attorney and Traci L. Robinson, Esq., the prosecutor in his criminal case (collectively “appellees”), claiming that certain statements that Robinson made at this trial constituted “legal malpractice” and “perjury” and violated his constitutional rights.

Appellees filed a motion to dismiss on the grounds that the Office of the State’s Attorney was not a legal entity amenable to suit; appellant’s claims were barred by absolute prosecutorial immunity; and appellant’s claims were barred by statutory immunity because he failed to sufficiently allege that Robinson had acted with malice or gross negligence. In response, appellant filed an opposition, as well as an amended complaint, which substituted Marilyn J. Mosby, Esq., in her official capacity, as a defendant for the Office of the State’s Attorney. The amended complaint also raised new counts of “gross negligence” and “malice” against appellees. Several weeks after appellant filed the amended complaint, the court granted appellee’s motion to dismiss with prejudice. This appeal followed.

On appeal, appellant contends that the court erred in granting appellees’ motion to dismiss because his amended complaint “cured the deficiencies” raised in that motion. We disagree. All the claims set forth in appellant’s initial complaint, and in his amended complaint, were based on Ms. Robinson’s statements to the jury during his criminal trial. And it “is a well-established tenet of Maryland common law that prosecutors enjoy absolute prosecutorial immunity for claims arising from their role in the judicial process

and that the immunity extends to acts such as . . . preparing and presenting the State’s case in court.” *State v. Rovin*, 472 Md. 317, 350 (2021). Moreover, it is irrelevant that appellant amended his complaint to allege that appellees had acted with gross negligence and malice as it “is equally well established that allegations of malice do not defeat prosecutorial immunity.” *Id.*¹ Because appellees are entitled to prosecutorial immunity for the conduct alleged by appellant in his amended complaint, the court did not err in granting the motion to dismiss with prejudice.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**

¹ We note that in his amended complaint, appellant briefly asserted that Ms. Mosby had been grossly negligent in failing to supervise Ms. Robinson. However, notwithstanding the fact that this is a wholly conclusory allegation, the United States Supreme Court has held that prosecutorial immunity also applies to claims that a prosecutor’s actions at trial were due to improper supervision and training. *Van de Kamp v. Goldstein*, 555 U.S. 335, 338-39 (2009).