

**YOUNG LEE, AS VICTIM'S \* IN THE**  
**REPRESENTATIVE, \* COURT OF SPECIAL APPEALS**  
**Appellant, \* OF MARYLAND**  
**v. \* September Term 2022**  
**STATE OF MARYLAND \* No. 1291**  
**\* Circuit Court Case Nos. 199103042-46**

\* \* \* \* \*  
**REPLY TO APPELLANT'S NOVEMBER 2<sup>ND</sup> RESPONSE**

It is both legally and morally correct that our system honors the rights of victims. It is also true that the closure that victims sometimes seek may not be found in the solutions that our legal system offers.<sup>1</sup> The pain that Ms. Lee's family has endured over the past twenty-three years is unfathomable.

The Honorable Wanda Keys Heard was the first African American woman to serve on the Baltimore City Circuit Court and dedicated her career to public service. Appellee appreciates and acknowledges her service.

It is not unusual that a prosecutor who has been found to have committed wrongdoing disputes the assessment of that conduct. That issue is not before this Court. As the Office of the Attorney noted in its response to this Court, "whether a *Brady* violation

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<sup>1</sup> As the Office of the Attorney General notes, "[Whether the State's Attorney's Office complied with their statutory and constitutional obligations to crime victims and victim representatives] is the only issue that Mr. Lee has standing to appeal." State's Response at 41.

occurred, and, if so, who is responsible are irrelevant to the issue on appeal.” State’s Response at 41.

There is no pending criminal case against Mr. Syed. The question before this Court is whether that fact renders Appellant’s appeal on the issue of victim notification moot. It does.

In his Opposition to Adnan Syed’s (1) Response to Appellant and (2) Motion to Strike Judge Heard’s Affidavit (“Appellant’s Opposition”), Appellant contends that the appeal is not moot because this Court can reverse the vacatur order and remand for a new hearing without violating the prohibition against double jeopardy. Appellant’s Opposition, at 13. Appellant makes this argument for the first time. He did not take this position in his Response to this Court’s order to show cause why the appeal should not be dismissed as moot.<sup>2</sup> Nor did the Attorney General take this position in its response (and in which it conceded that the appeal is “likely” moot).

Appellant’s argument fails. The remedy Appellant now seeks is for this Court to not only reverse the vacatur order of September 19 but also the nolle prosequi entered by the State’s Attorney on October 11. Appellant now argues, “there is no procedural bar preventing this Court from striking the nolle prosequi.” Appellant’s Opposition, at 15. If double jeopardy was the only “procedural bar,” Appellant might be correct. But there is a

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<sup>2</sup> *C.f. State v. Jones*, 138 Md. App. 178, 230 (2001) (“The cases are legion, in Maryland and elsewhere, that an appellate court generally will not address an argument that an appellant raises for the first time in a reply brief.”).



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**Certification of Word Count and Compliance with MD Rule 8-112**

This pleading complies with the font, line spacing, and margin requirements of Maryland Rule 8-112 and contains 683 words, excluding the parts exempted from the word count by Rule 8-503.

\_\_\_\_\_/s/\_\_\_\_\_  
Erica J. Suter

### **Certificate of Service**

I hereby certify that on November 3, 2022, I electronically filed the foregoing “Reply to Appellant’s November 2<sup>nd</sup> Response” using the MDEC System, which sent electronic notification of filing to all persons entitled to service, including Steven J. Kelly and Assistant Attorney General Carrie Williams.

\_\_\_\_\_/s/\_\_\_\_\_  
Erica J. Suter