

Circuit Court for Prince George's County  
Case No. CT191132X

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 189

September Term, 2021

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RYAN MINNICH

v.

MARYLAND OFFICE OF THE PUBLIC  
DEFENDER

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Berger,  
Friedman,  
Beachley,

JJ.

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Opinion by Beachley, J.

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Filed: November 10, 2021

\* 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.

This appeal arises from an order imposing a monetary discovery sanction against appellant, Detective Ryan Minnich, payable to appellee, the Maryland Office of the Public Defender (“OPD”). Detective Minnich presents three questions for our review, which we have reordered as follows:

1. Did the trial court abuse its discretion when it assessed a State’s witness a monetary fine for a discovery violation without giving the witness any due process of law?
2. Did the trial court abuse its discretion when it ruled that a State’s witness was a party to the case?
3. Did the trial court err when it failed to go through the necessary analysis to determine if a discovery violation existed and whether there was any prejudice to the defendant?

The OPD concedes—and we agree—that the court committed reversible error by imposing a sanction in violation of Detective Minnich’s right to due process. Accordingly, we will reverse that sanction and need not, therefore, address the merits of the remaining questions presented.

### **BACKGROUND**

On October 31, 2019, Corey Parker, the defendant in the underlying criminal case, was indicted by a grand jury, sitting in the Circuit Court for Prince George’s County, on two counts of motor vehicle theft and fourteen related offenses arising from crimes committed on August 27, 2019, at or around a Gold’s Gym located at 12510 Fairwood Parkway in Bowie, Maryland. According to Detective Minnich’s statement of probable cause, on September 2, 2019, Karissa Dodson, a Gold’s Gym manager, called and advised him that she had seen the suspect at that same Gold’s Gym. Detective Minnich was both

among the officers who responded to the scene and the lead investigator assigned to the case. A search incident to Parker's arrest revealed property owned by several other individuals.

At a February 27, 2020 motions hearing, the State requested a continuance so that it could conduct additional discovery. The State explained that it was awaiting receipt of video surveillance footage from "WMAT" and Gold's Gym, which it anticipated receiving in less than a week. Defense counsel objected and requested that the court set a discovery deadline. While the court granted the State's requested continuance, it established a discovery cutoff date of March 5, 2020. Although the State complied with the order to produce the footage prior to the court-imposed discovery deadline, Detective Minnich's continued investigation revealed additional evidence, which he subsequently submitted to the State.

At an April 14, 2020 bail review hearing, the State represented that discovery had been completed. The following day, however, it filed notices of intent to call a forensic expert witness and to submit the following evidence as self-authenticating business records: (i) inmate phone records, (ii) a 911 recording, (iii) medical records, (iv) a computer-aided dispatch report, and (v) motor vehicle records for two of the automobiles that Parker had allegedly stolen. Defense counsel, in turn, objected to any further discovery, arguing that the State had failed to comply with Maryland Rule 4-263's notice requirements and the court-imposed discovery deadline.

During a status hearing held on July 7, 2020, the State advised the court that discovery remained outstanding, explaining:

So the initial discovery was provided. However, after speaking to witnesses, there's been additional discovery. And as I've been receiving it, I've been passing it along to [defense counsel]. Most recently, I provided her with radio runs and a 911 [recording.]

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I was able to speak with Karissa Dodson, wh[o] is the manager at Gold's Gym and she indicated that she had some incident reports and she was sending those over to me. So I will need to send that to [defense counsel] because there could be . . . potential witness statements . . . . So discovery is continuously being provided.

Defense counsel again opposed continuing discovery, citing the court's previously established discovery deadline. She further maintained that “[n]one of the discovery being provided [was] newly found discovery” and argued that it was improper for the State to continue investigating the case. The State responded:

When I indicated that all discovery was complete at [the bail review hearing], it was all that the State had in [its] possession. When I spoke to Detective Minnich, Detective Minnich had to do some research with regard[] to the lady who provided the photos to him because it came through two other officers. So once I spoke to Ms. Mercer, I did provide defense counsel with the photos and the report and the information that I received after the Detective was able to figure out where the initial report came from.<sup>[1]</sup>

There are multiple instances in this case in which -- some of which did not lead to arrest.<sup>[2]</sup> So that's the State's reason as to why discovery has been continuously provided[.]

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<sup>1</sup> Linda Mercer was a witness who had both placed a recorded 911 call and took photographs of Parker driving a stolen vehicle.

<sup>2</sup> The State is here referring to other crimes allegedly perpetrated by Parker on September 1-2, 2019.

I had no idea, until I spoke to Karissa Dodson, and which the [c]ourt knows that the gyms have been closed, that she had written these incident reports.<sup>[3]</sup> So, therefore, the State will be providing those to defense counsel. So I just wanted to make the record clear as to why the State is continuing -- and as you know, under discovery deadlines, the State had a continuing obligation to provide this discovery[.]

The court deferred ruling on the discovery issue and held a hearing on October 9. In the interim, the State submitted 14 additional discovery files to defense counsel.

After hearing oral argument, the court determined that the State had violated the rules of discovery, but faulted Detective Minnich for having “failed to provide information in the control of the police department.” The court took the matter of the appropriate sanction under advisement and scheduled yet another hearing for October 23 to address what, if any, sanction to impose. At that hearing, the court reiterated that the State had violated the rules of discovery, reasoning that it was “responsible for the actions of the police department[.]” The court then asked defense counsel how many hours the OPD had allocated to addressing the parties’ discovery dispute. The defense estimated that it had spent approximately ten hours making discovery requests, reviewing discovery materials, and coordinating with the State. Although it concluded that the State was ultimately accountable for the discovery delay, the court found that “it really [was] the . . . Prince George’s County Police Department, wh[ich] ha[d] failed to provide the information.” Setting the OPD’s hourly rate at \$50.00, the court sanctioned Detective Minnich with a

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<sup>3</sup> The gym closures to which the State referred were apparently due to the ongoing COVID-19 pandemic.

\$500.00 fine. The court’s ruling from the bench was memorialized in a written order entered on October 30, 2020, wherein it found that Detective Minnich had acted willfully and deliberately and that the State had violated Maryland Rule 4-263.<sup>4</sup>

On November 17, 2020, Detective Minnich and the Prince George’s County Police Department responded to the court’s order with a “Motion to Reconsider and Vacate Discovery Sanctions” and requested a hearing on that motion. Pending the court’s ruling, Detective Minnich complied with the court’s order that he deposit \$500.00 into the circuit court registry.

While Detective Minnich’s motion was still pending, Parker pled guilty to two counts of unauthorized removal of property and was sentenced to concurrent terms of four years’ incarceration and three years’ post-release probation. In an order entered on April 1, 2021, the court denied the motion filed on behalf of Detective Minnich and mandated that the \$500.00 that he had deposited be released to the OPD.

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<sup>4</sup> Maryland Rule 4-263 governs discovery in criminal cases before the circuit court, and provides, in pertinent part:

If at any time during the proceedings the court finds that a party has failed to comply with this Rule or an order issued pursuant to this Rule, the court may order that party to permit the discovery of the matters not previously disclosed, strike the testimony to which the undisclosed matter relates, grant a reasonable continuance, prohibit the party from introducing in evidence the matter not disclosed, grant a mistrial, or enter any other order appropriate under the circumstances. The failure of a party to comply with a discovery obligation in this Rule does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness’s testimony, disqualification is within the discretion of the court.

Md. Rule 4-263(n).

## DISCUSSION

Detective Minnich contends, *inter alia*, that the court committed reversible error by assessing a monetary sanction against him without prior notice or an opportunity to be heard. The OPD agrees, and so do we.

“The due process clauses in the Fourteenth Amendment and in Article 24 of the Maryland Declaration of Rights protect an individual’s interests in substantive and procedural due process.” *Knapp v. Smethurst*, 139 Md. App. 676, 703 (2001); *see also Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (“Procedural due process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the . . . Fourteenth Amendment.”). The essence of due process is notice and a meaningful opportunity to be heard. *See Roberts v. Total Health Care, Inc.*, 349 Md. 499, 509 (1998) (“At ‘[t]he core of due process is the right to notice and a meaningful opportunity to be heard.’” (quoting *LaChance v. Erickson*, 522 U.S. 262, 266 (1998))). Due process does not require, however, that individuals receive actual notice of actions imperiling their private interests if notice is “reasonably calculated, under all the circumstances, to appri[s]e interested parties of the pendency” thereof. *Griffin v. Bierman*, 403 Md. 186, 197 (2008) (quoting *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)).

The process due depends upon the circumstances of a particular case. *See Mathews*, 424 U.S. at 334 (“[D]ue process is flexible and calls for such procedural protections as the particular situation demands.” (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972))).

When assessing what degree of process is due, courts are generally required to consider: (i) “the private interest that will be affected,” (ii) the danger of the “erroneous deprivation of such interest through the procedures used,” and (iii) the State’s interests, “including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

We are persuaded that the court’s imposition of a sanction against Detective Minnich constituted a violation of due process. Neither in its written motion nor at argument on the motion did the OPD seek sanctions against Detective Minnich. It only asked that the court exclude the belatedly discovered evidence offered by the State. Detective Minnich, a State’s witness and non-party, therefore, lacked notice that the court might levy sanctions against him. See *City Homes, Inc. v. Hazelwood*, 210 Md. App. 615, 694 (2013) (“It is pellucid that sanctions may not be imposed against a party without notice.”), *overruled in part on other grounds*, *Levitas v. Christian*, 454 Md. 233, 247 n.15 (2017). The record likewise reflects that Detective Minnich was denied a meaningful opportunity to be heard. The record does not reflect that he was apprised of the hearings culminating in the monetary sanction, nor does it appear that he was in attendance at those hearings. When he sought a hearing to challenge the imposition of a monetary sanction, Detective Minnich’s request was denied in an order and memorandum opinion which did not remotely address the issues raised in his motion. Having been deprived of a private property interest without prior notice or a meaningful opportunity to be heard, we hold that



Detective Minnich was denied due process. Accordingly, we reverse the circuit court’s imposition of a monetary sanction against Detective Minnich.<sup>5</sup>

**JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY REVERSED. CLERK OF CIRCUIT COURT ORDERED TO VACATE JUDGMENT IMPOSED AGAINST RYAN MINNICH. OPD SHALL REMIT \$500.00 TO RYAN MINNICH. PARTIES TO PAY THEIR OWN RESPECTIVE COSTS.**

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<sup>5</sup> In light of our holding, we agree with OPD that it is unnecessary to decide whether a trial court is authorized to order the type of sanction imposed in this case. In its brief, the OPD stated that it is “not aware of any Maryland precedent upholding a trial court’s award of a monetary sanction against an individual for a discovery violation by the State.” We are likewise unaware of any such authority.