UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1428

September Term, 2016

KEITH ANDERSON

v.

STATE OF MARYLAND

Meredith,
Reed,
Davis, Arrie W.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Davis, J.

Filed: July 21, 2017

Appellant, Keith Anderson, was convicted at a bench trial by the Circuit Court for Baltimore City (Heard, J.) of possession with intent to distribute cocaine, distribution of cocaine and possession of cocaine. The court merged the conviction for possession of cocaine into the conviction for possession with intent to distribute cocaine and sentenced Appellant to two concurrent terms of twelve years' imprisonment, all but five years suspended, in addition to a suspended twelve-year sentence to be served for the conviction for possession with intent to distribute. Appellant, however, was acquitted of conspiracy. Appellant filed the instant appeal from these convictions and sentences in which he posits the following questions for our review:

1. Did the court improperly interject itself into Appellant's prosecution?
2. Should Appellant's conviction for possession with intent to distribute have been merged into his conviction for distribution?

FACTS AND LEGAL PROCEEDINGS

The State's first witness, Detective Sandy Ferdinand, testified that he participated in an undercover investigation called the "Eastern By Walk Initiative" during the fall of 2015. The Detective described the investigation as having been conducted over a period of two months, during which undercover officers purchased narcotics from street dealers and later identified those dealers to "cover team[s]" for ongoing investigation. Detective Ferdinand further testified that he conducted undercover narcotics purchases from two dealers on September 8, 2015.

According to the Detective, he parked his vehicle in the 2400 block of Greenmount Avenue, approached an individual in a white T-shirt, purchased "two ziplocks," *i.e.*,

baggies of cocaine, a controlled dangerous substance ("CDS"), for $20.00 and returned to his vehicle. From within the vehicle he observed a suspected second dealer. He called out to the dealer and asked for "hard." The second dealer responded affirmatively and walked a few feet to "another gentleman with a red baseball cap, white t-shirt . . . standing there with a little kid." The dealer spoke with the man in the red baseball cap, received "two small items which . . . were consistent in shape and size with CDS packaging material" and returned to the Detective. The Detective then received items from the dealer, "the same amount" as given to him by the man in the red cap.

Detective Ferdinand identified Appellant in court as the man in the red baseball cap. Other witnesses testified on behalf of the State that they heard a description, transmitted for investigatory purposes by Detective Ferdinand, of a man with a red baseball cap, walking with a small child, after the undercover purchases were made. Moreover, the State introduced, at trial, a video recording taken by a hidden body camera that the Detective wore while undercover on September 8th. A second purchase was not seen on the video, nor was a man in a red baseball cap; however, audio was recorded of the Detective inquiring about a second purchase and reporting a description of a man in a red baseball cap to his cover team.

Finally, the State introduced two exhibits of CDS purchased on September 8th. State's Exhibit 3 was authenticated as the cocaine purchased from the first dealer on that day, *i.e.*, the man in the white T-shirt. State's Exhibit 4 was authenticated as cocaine purchased from the unknown dealer who interacted with Appellant. Both exhibits were

introduced into evidence with laboratory reports confirming the chemical makeup and weight of the substances.

DISCUSSION

I

Appellant initially contends that, although he does not take issue with the trial court asking "clarifying questions" of the State's witnesses, an abuse of discretion was committed "when the trial court asked direct questions of the State's witnesses, explaining to the witnesses the defense's objection in a way that made clear how the witness could avoid the evidentiary obstacles and eliciting foundational testimony to surmount those objections." In so doing, he asserts, "the trial judge created an appearance of partiality—which constitutes a deprivation of the fair trial right and automatic abuse of discretion."

Although acknowledging that "Appellant made general objections to some of the trial judge's questions," the State responds that Appellant's assertions of judicial bias are unpreserved. The State also asserts that, even if Appellant preserved the issue for our review, it is without merit. Specifically, the State argues that due process guarantees an absence of *actual* judicial bias, not just the *appearance* of bias. Accordingly, the State asks that we affirm the circuit court's ruling.

Excerpts from Bench Trial

During Appellant's bench trial, the defense presented no witnesses. Appellant cites the several colloquia between the trial judge and the State's witnesses in support of its argument that the judge created an appearance of partiality and deprived him of a fair trial,

starting with the State's first witness, Detective James Shockley:

> THE WITNESS: I was on the cover team that day. Once Detective Ferdinand got done with the buy, he gave—
>
> [Defense Counsel]: Objection.
>
> THE COURT: Did you see it, hear it, how do you know he was done with the buy?
>
> THE WITNESS: He's going to object, Your Honor every time I go—
>
> THE COURT: I know, but I'm the judge. Did you see it, hear it, or did in other words, his objection is how do you know that he was done with the buy? That's his objection and I'm saying, let's back up and tell me, did you see it, hear it, or how did you know that he was done with the buy?
>
> THE WITNESS: I didn't see the buy. I didn't hear the buy. How I know that the buy is complete is because Detective Sgambati will give a description of the individual who sold the drugs to UC49. That's how I know.
>
> THE COURT: Okay. So I need you to do this. Back up a bit.
>
> THE WITNESS: Yes, ma'am.
>
> THE COURT: You're giving us conclusions.
>
> THE WITNESS: Okay.
>
> THE COURT: And I need you to give us action.
>
> THE WITNESS: Okay.
>
> THE COURT: So you're in the cover location.
>
> THE WITNESS: I'm in the cover location.
>
> THE COURT: And you're hearing something.
>
> THE WITNESS: Yes.
>
> THE COURT: What are you hearing?

THE WITNESS: Detective Sgambati putting out—

[Defense Counsel]: Objection.

THE COURT: Overruled

THE WITNESS: Detective Sgambati put out a description of an individual who UC49 stated he bought the drugs from.

THE COURT: Okay, I want—

THE WITNESS: I mean by description, I mean by clothing description.

THE COURT: Slow down, slow down a minute. It's sustained. It's sustained. You're going to have to do a better job of setting up the process.

[The State's Attorney]: Okay.

Thereafter, the trial judge warned the State that the detective's testimony on that point contained "two levels of hearsay," the admission of which required better "set up." The Prosecutor therefore asked the detective further foundational questions, which were met with further objections. The trial judge sustained the objections. The trial judge then resumed asking questions of the witness, eliciting foundational facts to support admission of the hearsay:

[Assistant State's Attorney]: And what did you go to look for?

[Defense Counsel]: Objection.

THE COURT: Did you all have a meeting that morning about, to discuss the plan for the day?

THE WITNESS: Yes, ma'am.

THE COURT: And you do that every day; don't you?

THE WITNESS: Yes ma'am.

THE COURT: And when you had that meeting, you were at your headquarters?

THE WITNESS: No, ma'am. I believe we were on the street when we had that.

THE COURT: You were on the street?

THE WITNESS: Yes, ma'am.

THE COURT: And when you did that, there was a team, right?

THE WITNESS: Correct.

THE COURT: And everybody on the team had a job, right?

THE WITNESS: Correct.

[Defense Counsel]: Objection, Your Honor.

THE COURT: Overruled. That's what Ms. Miller needs you to tell me. I need a foundation of what the team was designated to do, who was on the team and then what your role was. If you could start there, you're on that cover team, I know. But there were other people that had different roles and maybe other people that were on the cover team with you. If you could go through that list. Mr. Sanderson and I would like to know who those people were. So start from the beginning.

The Detective then, pursuant to the court's directive, related the "foundation of what the team was designated to do." The State continued its examination, but again ran into evidentiary hurdles. The court explained its reasoning underlying its sustaining all of the defense's objections to the State. The State then abandoned its line of questioning and proceeded with its inquiry.

When the Assistant State's Attorney inquired into the Detective's training and experience, the Detective sought to give an opinion before testifying to his training and

experience, to which Defense counsel objected. The trial judge sustained the objection and reinitiated her questioning of the witness:

> THE WITNESS: Basically, that experience leads me to believe that the person—
>
> [Defense Counsel]: Objection.
>
> THE COURT: Sustained. She didn't, he didn't ask you what the conclusion was. What experience you had you had [sic] is what he, she asked.
>
> THE WITNESS: I've had experience with the same type of investigation, previous investigations.
>
> THE COURT: No, what specific? What training, what has happened in the past liking [sic] it to this type of investigation you were conducting on that day?
>
> THE WITNESS: It's a little hard to—
>
> THE COURT: You know what, it would have been smart for you to Google me.[1] So then it would have been helpful to you to know how to ask questions because generally what you do is you find out the type of judge you have in front of you so that you know what kind of questions to ask especially if it's going to be a Court trial.
>
> [Assistant State's Attorney]: Yes.
>
> THE COURT: Which you knew it was going to be a Court trial. So Mr. Sanderson kind of know [sic], but I would suggest to your witness that you need to answer the question that's asked, not what you think she wants you to say, but wants you to say, but what she's asking you and right now, she's asking you about your background, training and experience. What background, training and your experience helped you disseminate what was happening in the 2400 block of Greenmount Avenue.

[1] MERRIAM-WEBSTER ONLINE, https://www.merriam-webster.com/dictionary/google (last visited Jun. 6, 2017). "Google (transitive verb): to use the Google search engine to obtain information about (someone or something) on the World Wide Web," *i.e.*, the internet.

The Detective responded that he had been an "undercover detective in my previous cases," and subsequently opined about the significance of multiple dealers selling without violence on the same block.

Defense counsel conducted cross-examination by asking two questions and establishing that the Detective conducted no drug transactions in connection with Appellant's investigation. When the defense concluded cross-examination, the Court launched its own line of questioning over the objection of defense counsel:

> THE COURT: Isn't it a fact that the reason why you have violence is that there is often competition in a neighborhood where you have one drug dealer selling drugs and another drug dealer selling a different product which may be a little better—
>
> [Defense Counsel]: Objection.
>
> THE COURT: …and that's when you usually have violence in a neighborhood?
>
> [Defense Counsel]: Objection.
>
> THE COURT: So just because you have two drug dealers working the same neighborhood or same corner does not necessarily mean that they're working together; isn't that right?
>
> THE WITNESS: That's right.
>
> THE COURT: And isn't it a fact that sometimes that's just the point. They fight and duke it out cause the corner is highly populated and they want that corner and they try to come up with deals like maybe they'll undercut the price or maybe they'll give you a miniature of uh, Vodka along with you, your drugs. They kind of come up with a deal; don't they?
>
> THE WITNESS: Yes, Your Honor.
>
> THE COURT: And so, in this particular situation, merely because you saw drug dealers working the same corner, you didn't know for a fact that they were working together until something else happened; isn't that true?

THE WITNESS: Yes, Your Honor.

THE COURT: As a result of the Court's questions, does the State have any more questions?

The Prosecutor then asked Detective Shockley whether two competing drug dealers could make a deal to avoid violence. The Detective answered that they could. The State's Attorney asked whether such a deal "[was] an agreement of sorts" and the Detective answered that it was.

The court next examined the State's primary witness, Detective Sandy Ferdinand. During the State's examination of the witness, the Assistant State's Attorney prosecuting the case encountered further evidentiary difficulties. The court denied her request to move evidence of certain CDS recovered during the Detective's undercover investigation into the record. The Prosecutor therefore asked additional foundational questions of the Detective, which did not allay the court's evidentiary concerns.

[Assistant State's Attorney]: But the drugs that are inside this exhibit in a green bag, those resemble the drugs that you purchased on that particular date or not?

THE WITNESS: Yes, ma'am.

[Defense Counsel]: Objection, leading.

THE COURT: Overruled. And where did you get the green bag of drugs from?

[Defense Counsel]: Objection.

THE COURT: Overruled.

THE WITNESS: The—

THE COURT: You have something in front of you. She just identified a green bag in there.

THE WITNESS: Right.

THE COURT: I see actually two little bags, but the green bag she's referencing, where did you get that from?

THE WITNESS: The green bag, I got it from the first purchase.

THE COURT: The first purchase from the purchase across the street.

THE WITNESS: Yes, ma'am.

THE COURT: The one where you got the loose cigarettes.

THE WITNESS: Yes, ma'am.

THE COURT: Okay and is that person here?

THE WITNESS: No ma'am.

Having established the full chain-of-custody and source of the disputed evidence, the court thus established the authenticity and relevance of the evidence to the trial. Immediately thereafter, the court continued to prohibit the Prosecutor from submitting the disputed evidence into the record; however, after the Assistant State's Attorney asked a few more foundational questions, the evidence was admitted "for what it's worth."

Analysis

As a preliminary matter, we address the State's assertion that Appellant failed to preserve the argument for our review. According to the State, it is unclear how the trial judge was supposed to determine, from sporadic general objections, that Anderson's complaint was "based on a belief that the judge was exhibiting bias or partiality." The State

cites cases, in its appellate brief, where the trial judges were informed by defense counsel that they were doing something that counsel considered inappropriate. The State therefore submits that, since no such courtesy was extended to the trial judge here, "consistent with the preservation rule's purpose of preventing of unfairness, and requiring that all issues be raised in and decided by the trial court, Appellant's complaints of judicial bias and partiality made for the first time on appeal, should not be considered."

"Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]" MD. RULE 8–131(a). "In the context of a trial court's interrogation of a witness, trial counsel must, at the very least, object to the court's question or comment in order to preserve appellate review of the interrogation." *Smith v. State*, 182 Md. App. 444, 478 (2008). *See also Joseph v. State*, 190 Md. App. 275, 289 (2010) ("[U]nder Maryland Rule 8–131(a), a party has to object to preserve allegations of judicial bias for review.").

Md. Rule 4–323(a) governs the method of interposing objections in the circuit court and provides that an objection to the admission of evidence "shall," *i.e.*, must, be timely or it is waived. Subpart (a) further provides that "[t]he grounds for the objection need not be stated unless the court . . . so directs."

> We also recognize that, when an Appellant does not seek to challenge a few, distinct questions posed by the trial court to the witness, but instead seeks to challenge an overall pattern of conduct on the part of the trial court that demonstrates a lack of neutrality, it is unreasonable to expect trial counsel to object each time the trial court decides to intervene. Oftentimes, a pattern of conduct only becomes apparent as the proceedings unfold. Moreover, any competent trial counsel is aware that a trial court has broad discretion to ask questions of the witnesses at trial. Defense counsel is

> thus in the unenviable position of having to determine when the trial court's questioning has 'gone too far,' warranting an objection.

Smith, 182 Md. App. at 478 (citations omitted).

The Court of Appeals, in *Diggs v. State*, 409 Md. 260 (2009), briefly outlined the various methods employed by appellate courts in Maryland to review issues of judicial bias or partiality where repeated, timely objections, have not been interposed.

> In the past, when addressing the issue of judicial bias, we have inferred that unobjected to behavior can be reviewed by utilizing structural error review. We also have reviewed allegations of judicial bias without necessarily articulating our bases or requiring repeated objections; in *Jackson v. State*, 364 Md. 192 (2001), despite the failure to object during sentencing to comments made by the judge, we reversed the conviction and held that the trial judge's comments exceeded the outer limit of a judge's broad discretion and amounted to impermissible sentencing criteria. More frequently, however, we have invoked the 'plain error' doctrine in support of our review of allegations of unobjected to judicial bias.

Id. at 285–86.

In *Walker v. State*, 161 Md. App. 253, 278 (2005), we noted the sparsity of case law in Maryland concerning structural error review and briefly outlined the treatment by the Supreme Court.

> Some types of trial error are so egregious that the United States Supreme Court has identified them as structural errors that so 'affect [ ] the framework within which the trial proceeds that they require automatic reversal.' If a structural error is committed, prejudice is assumed.

Id. We also noted that the structural error doctrine is very narrow and, in Maryland, the actions contested must "rise to the level of structural error," *i.e.* constituting "extraordinary error," in order to relieve the defendant of the burden of establishing prejudice. *Id.* at 279 (quoting *Whitney v. State*, 158 Md. App. 519, 537 (2004)). *See Martin v. State*, 165 Md.

App. 189, 201, 885 A.2d 339, 346 (2005) (quoting *Harmon v. Marshall*, 69 F.3d 963, 965–66 (9th Cir.1995)) (noting that "omitting instruction on, or otherwise failing to submit to the jury, one element of an offense is reversible *per se*").

In *Diggs, supra,* the Court of Appeals reviewed a claim of judicial bias or partiality under plain error review. The Court noted that

> ordinarily the failure to object will only be countenanced in those instances in which the judge exhibits repeated and egregious behavior of partiality, reflective of bias. Failure to object in less pervasive situations may not have the same result, nor will we necessarily intervene.

409 Md. at 294. Ultimately, the Court held that the trial judge in that case had exhibited repeated and egregious behavior or partiality and reversed the circuit court's ruling. *Id.* 294–95.

> Utilizing a plain error analysis, was the judge's conduct in the instant cases so compelling as to warrant reversal in both cases? We must answer in the affirmative.
>
> ***
>
> [T]he judge rehabilitated the prosecutor's case by laying the foundation for the distribution charge during questioning of the lead detective, Detective Giganti; rehabilitated Detective Georgiades after he appeared confused; questioned Sherienne Diggs regarding the denominations of bills, where she put her keys, and the timing of her telling the police that the car and drugs belonged to her boyfriend rather than her brother; commented to Ms. Diggs, 'You have a very good memory on everything else,' and questioned her whether she was comfortable with her testimony, all of which bolstered the State's case while implying a disbelief in the defense and created the aura of partiality in front of the jury. Similarly, in *Ramsey* [a companion case], the judge elicited key elements of the State's case from Officer Torbit including the timing and in-court identification of the defendant; established key aspects of the officer's testimony regarding the drugs; elicited testimony regarding the elements of intent to distribute after the prosecutor finished questioning the witness; made comments to the jurors to bolster the integrity of the prosecutor that 'most lawyers, good lawyers, talk to their witnesses,' and established

> the chain of custody of the drugs after the prosecutor failed to do so. In so doing, the judge acted as a co-prosecutor, and his behavior exceeded 'mere impatience' and crossed the line of propriety, creating an atmosphere so fundamentally flawed as to prevent Diggs and Ramsey from obtaining fair and impartial trials.

Id. at 287, 293.

However, in *Diggs*, although defense counsel did not object to each instance of objectionable questioning, there was an explanation made on the record as to why counsel found the judge's behavior objectionable: "This is inappropriate. You are not supposed to involve yourself in a case this way," *id.* at 270; "I am objecting to you questioning her any further. You're badgering her," *id.* at 271.

Although *Diggs* was reviewed *via* the plain error doctrine, the Court also noted that there have been instances that Maryland appellate courts review claims of judicial impartiality when questioning witnesses, without providing a basis for the review.

In *Leak v. State*, 84 Md. App. 353 (1990), we reversed a circuit court's ruling based on the judge's questions of the witness.

> [T]he interrogation was not for the purpose of sharpening the issue or bringing out the full facts of the case being tried. We cannot escape the conclusion that the purpose of the interrogation was to impeach the witness. The questions themselves could not fail to convey to the jury the judge's opinion of the witness's credibility. That is not the proper role of a trial judge, who must maintain the appearance of an impartial arbitrator.

Id. at 369. Although the defense counsel did not make objections after each question by the judge, counsel did object and, at a bench conference, informed the judge that he "had assumed a prosecutorial role in cross-examining the defense witness" and moved for a mistrial. *Id.* at 368.

In *Archer v. State*, 383 Md. 329, 359 (2004), the Court of Appeals held that a trial court's efforts to persuade a reluctant witness to testify at a murder trial through contempt proceedings and a coercive instruction on how to testify were "unnecessarily strong, threatening and prejudicial to the defendant," ultimately depriving the defendant of a fair trial. The Court reversed the lower court's decision, citing the harmless error doctrine as the basis for its determination that the judge's actions prevented the accused from having a fair trial. Specifically, the Court noted that "[t]he trial judge . . . went beyond simply informing the witness, in a neutral manner, of his obligation to testify and the consequences of his refusal to testify." *Id.* at 347. In *Archer*, defense counsel also did not engage in repetitive objections at each instance of the judge's conduct; however, counsel did make a record as to why the judge's conduct was inappropriate: "At this point, Judge, I have to object . . . . Basically, you are trying to coach this defendant to say something that's not true." *Id.* at 342.

In *Smith, supra*, we discussed several cases where the appellate court rejected claims of judicial impropriety in the examination of witnesses because of the failure of defense counsel to object to each instance. 182 Md. App. at 478–79. *See e.g., Woodell v. State*, 223 Md. 89 (1960), *Bailey v. State*, 6 Md. App. 496 (1969), *Bell v. State*, 48 Md. App. 669 (1981), *Chambers v. State*, 81 Md. App. 210 (1989). Ultimately, we held:

> We decline to apply the preservation rule in a hyper-technical fashion, foreclosing appellate review of meritorious claims, where the record shows that trial counsel has made good faith and timely objections *and attempted to explain, on the record, counsel's concerns regarding a pattern of questioning by the trial court.*

Id. at 479–80 (emphasis supplied).

In the instant case, we are unpersuaded that Appellant's claim can be reviewed under any of the modalities mentioned by the *Diggs* Court. The judge's actions, even as Appellant characterizes them, do not rise to the level of structural error, *i.e.*, "so egregious" that they "affect [ ] the framework within which the trial proceeds" or constitute "extraordinary error." *Walker, supra.*

Additionally, the trial judge's questions posed to the witnesses do not rise to the level of plain error review. Unlike *Diggs*, the trial judge in the case *sub judice* did not act in a manner that illustrated "repeated and egregious behavior of partiality, reflective of bias." By asking clarifying questions, the judge did not cross the line to become a co-prosecutor; there was no insinuation about Appellant's truthfulness, *vel non*, nor bolstering of the Assistant State's Attorney over Defense counsel. Ultimately, the judge's questions posed to the various witnesses did not create "an atmosphere so fundamentally flawed" as to deprive Appellant of a fair and impartial trial. *Diggs, supra.*

Finally, we note that the record in the instant appeal, unlike in *Smith*, *supra*, does not show "that trial counsel [] made good faith and timely objections and attempted to explain, on the record, counsel's concerns regarding a pattern of questioning by the trial court." Although we also declined, in *Smith*, to "apply the preservation rule in a hyper-technical fashion," we did note that the record should reflect either timely objections *or an attempt to explain* counsel's misgivings over the trial judge's actions. In the case *sub judice*, the record reflects no such attempts. Although Appellant made timely objections to

some of the judge's questions to the State's witnesses, Appellant only provided grounds for one of the objections made, *i.e.*, that counsel's question was leading. Otherwise, the record is absolutely void of any explanation as to why counsel was concerned about the appearance of judicial bias or partiality. Therefore, the issue has not been properly preserved for our review.

II

Maryland Rule 4–345 governs sentencing and revisory powers of the circuit court. "A failure to merge a sentence is considered to be an 'illegal sentence' within the contemplation of the rule." *Pair v. State*, 202 Md. App. 617, 624 (2011). "An illegal sentence is reviewable at any time. MD. RULE 4–345(a). An appellate court may review an allegation of an illegal sentence regardless of whether an objection was made at sentencing. *Griffin v. State*, 137 Md. App. 575, 578 (2001) (citation omitted).

Citing the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution and the Maryland Common Law prohibition against double jeopardy, Appellant next contends that the "normal standard determining whether two offenses merge, where both convictions are based on the same act or acts, is the Required Evidence Test." *Nicholas v. State*, 426 Md. 385, 401 (2012). The Court of Appeals, in *Newton v. State*, 280 Md. 260, 268 (1977), explained:

> If each offense requires proof of a fact which the other does not, the offenses are not the same and do not merge. However, if only one offense requires proof of a fact which the other does not, the offenses are deemed the same, and separate sentences for each offense are prohibited.

In the instant case, Appellant submits that "the testimony in this case showed a single CDS transaction, *i.e.*, a distribution," and that, therefore, a separate sentence for the lesser included offense of possession with intent to distribute was unconstitutional. *See also* MD. CODE ANN., CRIM. LAW § 5–602(1–2).[2] The State rejoins that it "agrees with Anderson's analysis," and, accordingly, agrees that Appellant's concurrent sentence for possession to distribute should be vacated. We agree.

> [W]here the possession with intent to distribute and the distribution arise out of the same transaction, distribution includes and subsumes possession with intent to distribute because the evidence required to prove distribution includes control over the substance.

Hankins v. State, 80 Md. App. 647, 659 (1989).

Accordingly, we hereby vacate Appellant's concurrent sentence for possession with intent to distribute.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; SENTENCE FOR POSSESSION WITH INTENT TO DISTRIBUTE VACATED; COSTS TO BE PAID ONE HALF BY APPELLANT AND ONE HALF BY MAYOR AND CITY COUNCIL OF BALTIMORE.

[2] MD. CODE ANN., CRIM. LAW § 5–602. "Except as otherwise provided in this title, a person may not: (1) distribute or dispense a controlled dangerous substance; or (2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance."