

STATE OF MARYLAND,

v.

ADNAN SYED.

IN THE

COURT OF SPECIAL APPEALS

OF MARYLAND

September Term 2022

No. 1291

Circuit Court Case Nos.

199103042-46

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**STATE'S RESPONSE TO MOTION TO STAY THE CIRCUIT  
COURT PROCEEDINGS PENDING RESOLUTION OF THE  
APPEAL**

The State of Maryland, Appellee,<sup>1</sup> by its attorneys, Brian E. Frosh, Attorney General of Maryland, and Carrie J. Williams, Assistant Attorney General, hereby responds to the motion to stay filed by Young Lee, the victim's representative, and states as follows:

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<sup>1</sup> Although this case is captioned *State of Maryland v. Adnan Syed*, Young Lee, as the victim's representative, is Appellant in this case. The State of Maryland is Appellee. As explained in the State's Motion to Strike Syed's Notice of Intention to Respond, Syed is not a party to this appeal.

On September 14, 2022, the Baltimore City State's Attorney's Office moved to vacate Syed's conviction under Criminal Procedure § 8-301.1, alleging newly discovered exculpatory evidence and the discovery of "two alternative suspects." Despite claiming that an investigation into Syed's conviction had been ongoing for nearly a year, the State's Attorney's Office did not notify the Lee family of its intent to move to vacate the judgment until Monday, September 12, 2022. Even then, the State's Attorney's Office did not disclose to the Lee family any details of its investigation or the identity of the two new suspects.

Two days after the motion was filed, on Friday afternoon at 2:59 p.m. EST, Assistant State's Attorney Becky K. Feldman sent an email to Mr. Lee telling him that the court "just scheduled" an "in-person hearing" on the motion to vacate for the following business day: Monday, September 19, 2022. Ms. Feldman provided a Zoom link and told Mr. Lee that if he and the other members of his family wished to "watch" the proceedings, they could do so via

Zoom. She did not tell Mr. Lee that he had a right to speak or otherwise participate in the hearing.

Mr. Lee retained counsel and moved to postpone the hearing by seven days. In his motion, Mr. Lee indicated that he wished to attend the hearing in person but could not travel from California on such short notice. At the hearing on Monday, September 19th, the Honorable Melissa M. Phinn heard argument from Mr. Lee's counsel before denying the motion to postpone, ruling that the notice to Mr. Lee complied with all statutory and constitutional obligations to victims. Then, based upon a proffer from the State's Attorney's Office, the court granted the motion to vacate Syed's conviction and ordered Syed immediately released.

On September 28, 2022, Mr. Lee filed a notice of appeal to this Court pursuant to Criminal Procedure § 11-103, which provides victims the right to appeal a final order that "denies or fails to consider a right secured to the victim" by Maryland law. On September 29, 2022, Mr. Lee filed a motion in the Circuit Court

for Baltimore City asking the court to stay all proceedings pending appeal. As of this filing, that motion has not been ruled upon.

On October 5, 2022, Mr. Lee filed a motion in this Court seeking to stay proceedings pending the outcome of the appeal. The State, through undersigned counsel, joins in Mr. Lee's request for a stay of all circuit court proceedings pending the outcome of Mr. Lee's appeal.

### **I. Argument in Support of the State's Response**

A circuit court's right to exercise its fundamental jurisdiction over a criminal case may be interrupted by "a stay granted by an appellate court, or the trial court itself, in those cases where a permitted appeal is taken from an interlocutory or final judgment[.]" *Pulley v. State*, 287 Md. 406, 417 (1980). Because the circuit court in this case has not entered a stay of the proceedings, this Court should order a stay in order to "preserve . . . [its] appellate jurisdiction." *Id.* at 406 n. 3.

Mr. Lee has the right to appeal the State's Attorneys' Office's failure to provide him reasonable notice of the motion to vacate

and their failure to comply with the Maryland Declaration of Rights' mandate to treat victims with "dignity, respect, and sensitivity." Md. Decl. of Rts. art. 47. To preserve this Court's appellate jurisdiction, and to avoid irreparable prejudice to Mr. Lee's right to appeal, the State joins Mr. Lee and respectfully requests that all circuit court proceedings in the above-captioned case be stayed pending the resolution of the appeal.

#### CONCLUSION

The State accordingly asks that this Court enter a stay of all proceedings in Case Numbers 199103042-46 pending the resolution of Mr. Lee's appeal.

Dated: October 7, 2022

Respectfully submitted,

BRIAN E. FROSH  
Attorney General of Maryland

*/s/ Carrie J. Williams*

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CERTIFICATION OF WORD COUNT AND  
COMPLIANCE WITH MD. RULE 8-112.

This brief complies with the font, line spacing, and margin requirements of Md. Rule 8-112 and contains 743 words, excluding the parts exempted from the word count by Md. Rule 8-503.

*/s/ Carrie J. Williams*

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CARRIE J. WILLIAMS

Assistant Attorney General

Attorney No. 0312170241

Counsel for Appellee

## CERTIFICATE OF SERVICE

In accordance with Maryland Rule 20-201(g), I certify that on this day, October 7, 2022, I electronically filed the foregoing “State’s Response to Motion to Stay Proceedings” using the MDEC System, which sent electronic notification of filing to all persons entitled to service, including Steve Kelly, counsel for Mr. Lee and Erica Suter, counsel for Mr. Syed.

*/s/ Carrie J. Williams*  
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