

CRIMINAL COURT OF BALTIMORE

STATE OF MARYLAND

vs.

Richard J. McKenzie

TERM
CASE NO. 48004528
IDENT. NO. 131-243
DOB 6/22/48
A.R. NO. 409

CHARGE

Handgun Violation

ATTORNEY	LOCATION	DATE	COURT REPORTER	DATE
<i>P. Post</i>	<i>Bail</i>		<i>Goldberg</i>	<i>6-2-80</i>
			<i>Goldberg</i>	<i>6/5/80</i>
			<i>D. Dunbar</i>	<i>7/7/80</i>

J. Patterer
ASST. STATE'S ATTY.
Chippendale

DATE	DOCKET ENTRIES
	<i>Commitment, filed Jail</i>
<i>1-17-80</i>	<i>Recognizance taken / District Court Bail \$5000.00</i>
	<i>Recognizance taken / Circuit Court</i>
<i>2/7/80</i>	<i>Criminal Inf. / Indictment filed Warrant Copy served — receipt filed</i>
<i>MAR 27 1980</i>	<i>Appearance of Attorney, filed</i>
	<i>Arraigned and Pleads Election of Trial</i>
	<i>Rest 4/29/80 - Pt. 11 - Watts, J. for/sal</i>
<i>APR 29 1980</i>	<i>Wainer 746 fd</i>
	<i>App of Phillip Patts</i>
	<i>Arg + Plead Not Guilty Jury Trial</i>
	<i>Rest CAO for Bail Watts S.</i>
<i>5-15-80</i>	<i>STATES REQUEST FOR DISCOVERY, fd</i>
<i>do</i>	<i>STATES DISCLOSURE FILED.</i>
<i>5/22</i>	<i>motion to suppress</i>
<i>4/22</i>	<i>Defendant request for discovery and motion to produce books</i>
<i>6-2-80</i>	<i>Ans + pleads Not Guilty before Finsterlin J</i>
	<i>motion to suppress heard + held out until</i>
	<i>till 6-5-80 pt. 8</i>
<i>6/5/80</i>	<i>Sub Caria Pending opinion on Motion - County to</i>
	<i>Rest Case</i>

DATE	DOCKET ENTRIES
6-16-80	Memorandum and Order filed denying Motion to Suppress. Figiniski, J.
7-7-80	Arg + submit under a Plea of Not Guilty
	+ Issue. Court Trial.
	Verdict - Guilty H. M. V.
	Judgment - held sub Curia for Prob Report sent on 8-25-80 PT 3.
	A. Figiniski J. CT. M & C. O. G. P. T. F.
ds.	as Bail
8-25-80	Disposition - 2 years Susp. 3 yrs Prob. Pay \$250.00 fine
	+ cost. Figiniski \$250.00 fine suspended.

ORDER FOR PROBATION

(Under Art. 27 — Sec. 641A — After Judgment of Conviction)

STATE OF MARYLAND

IN THE
CRIMINAL COURT OF BALTIMORE

Name Richard J McKenzie Docket No. 48004528
Address 6621 Bauman Neer Charge(s) H/V
D.O.B. 6-22-48 Convicted of:
Count(s) _____
Charge(s) H/V
Ident. No. 131-243

It is ORDERED, this 25 day of August, 1980, by the Criminal Court for Baer, by virtue of the authority conferred upon it by the laws of the State of Maryland, that the imposition of sentence is suspended or the execution of the sentence of 2 yr has been suspended, for the offense of H/V and the defendant is hereby released on Probation under supervision of the Maryland Division of Parole and Probation, without supervision for a period of 3 yrs, effective this 25 day of August, 1980, subject to the following conditions:

1. Report to his Probation Agent as directed and follow his lawful instructions;
2. Work or attend school regularly as directed by his Probation Agent;
3. Get permission from his Probation Agent before:
 - a. changing his home address;
 - b. changing his job;
 - c. leaving the State of Maryland;
 - d. owning, possessing, using, or having under his control, any dangerous weapon or firearm of any description;
4. Obey all laws;
5. Notify his Probation Agent at once, if arrested;
6. Permit his Probation Agent to visit his home;
7. Appear in Court when notified to do so;
8. Shall not illegally possess, use, or sell any narcotic drug, "controlled dangerous substance" or related paraphernalia;
9. Shall pay, through the Division of Parole and Probation the sum of \$ ~~250.00~~ ^{130.00} as follows:

- Court costs of \$ 130.00;
- Fine of \$ 250.00; - suspended also
- Attorney fee of \$ _____ to _____ whose address is _____;
- Restitution of \$ _____ to _____ whose address is _____;
- In such installments as the Division shall determine and direct, or;
- In installments of \$ _____ per _____;

10. Special conditions as follows: See pre-sentence report
① Referral to drug pgm - abstinence for drugs
② Referral to Mental Health Clinic for evaluation & counseling

Your first appointment with your Probation Agent is August 26, 1980, and the place to report is Greenford Ave. Your failure to report could result in your arrest.

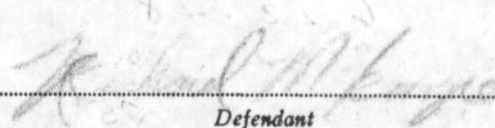
[Signature]
Judge

(OVER)

Consent


I have read, or have had explained to me, the above conditions of probation. I understand these conditions and agree to follow them. I understand that if I do not follow these conditions, I could be returned to Court, charged with a violation of probation.

Signed this 25th day of Aug, 1980


.....
Defendant

Witness:

The foregoing conditions of probation were reviewed, in my presence, with my client, the above signed defendant, who fully understood and agreed to them.


.....
Attorney

Original: Court File
Copies: Probationer
Division of Parole and Probation

Faint handwritten notes and signatures at the bottom of the page.



REG. U.S. PATENT OFFICE

LOCAL No. 333

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

Affiliated with AFL-CIO and Canadian Labour Congress

President

..... Joseph Bukowski

Address

..... 1104 Hull St.

Secretary

..... Richard Peremski

Address

..... Tel 752-4547

City Balto., Md. 21230

State

Date Aug. 19, 1980. 19

TO WHOM IT MAY CONCERN:

Re: Richard McKenzie (Pert #15624),
SSN 216-50-1562,
1200 Cherry Hill Rd., Apt. A,
Balto., Md. 21225.

This is to inform you that the above named person is a member in good standing of this Local Union, and has been since 2-15-1971. This Brother is employed on a regular basis, with seniority rights. Richard has proven himself to be a reliable and productive worker. Longshore work involves being dispatched at various hours (7A.M.. 12Noon, and 6 P.M. daily) for work assignment to the many different and distant work areas of the Port of Baltimore. Mr. McKenzie receives work orders on a 7 days a week basis, day and/or night shifts included. A shift ends when that particular ship or pier concludes it's current cargo operations, which could be an extended period of time.

Thank you for your attention in this matter. Please feel free to contact this Office for clarification of any of the above information.

Thank you,

Joseph Bukowski,
President.

AUG 7 20 14

Status 8

8-25-80

part 3

AUG 7 3 51 PM '80

LAWRENCE A. MURPHY
CLERK

IN THE
CRIMINAL COURT OF BALTIMORE
INDICTMENT NUMBER

48004528

STATE OF MARYLAND
V.S.

Richard Junior McKenzie

DIVISION OF PAROLE AND PROBATION
INVESTIGATION

C O N F I D E N T I A L

NOT TO BE OPENED WITHOUT THE
PERMISSION OF THE COURT

DATE
08/13/80

CRIMINAL COURT OF BALTIMORE
LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5814

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY SUMMONED TO APPEAR AS DEFENDANT IN COURTROOM P 03
IN THE CRIM COURTHOUSE ON MON AUG. 25, 1980 ROOM 231 AT 09:30 AM

TYPE OF PROCEEDING DISPOSITION

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE
CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO
BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH
YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

L 26
DEPUTY NO. _____

ASSOC. CASES ▶ 48004529 48004530 48004531

a

E. C. C. C.

8 12 80

DATE
08/13/80

CRIMINAL COURT OF BALTIMORE
LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5814

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY NOTIFIED TO PRODUCE THE DEFENDANT IN COURTROOM P 08
IN THE CRIM COURTHOUSE ON MON AUG. 25, 1980 ROOM 231 AT 09:30 AM

TYPE OF PROCEEDING DISPOSITION

AUG 20 11 48 AM '80
FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.
BY ORDER OF COURT

MCKENZIE, DANIEL L
6621 BOWMAN HILL DR
BALTIMORE, MD 21207

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. _____

ASSOC. CASES ▶ 48004528 48004530 48004531

BY FID CO
SHERIFF'S OFFICE
128000818
RECEIVED
LM

1879

CRIMINAL COURT OF BALTIMORE

DATE
AUG 18 1980

SWORN IN BY
SUMMONED WITNESS

NO. 14

LEFT WITH WIFE

LEFT WITH CHILD AGE

14

LEFT WITH NEIGHBOR NAME

LEFT UNDER DOOR

OTHER (SPECIFY)

MOVED
MORTUARY EST

NO SUCH ADDRESS

NEED APT NUMBER

WIT UNKNOWN AT ADDRESS

VACANT HOUSE

ATTENDING SCHOOL WILL RET

DISMISSED DATE

IN HOSPITAL NAME

LEFT EMPLOYMENT DATE

ON MEDICAL LEAVE

OFFICER UNKNOWN IN DEPT

RETIRED DATE

RESIGNED DATE

VACATION - WILL RETURN

OTHER

DATE OF SERVICE
AUG 11 1980

02/18/80

TIME OF SERVICE

NAME OF DEPUTY SHERIFF NO.

DATES SERVICE WAS ATTEMPTED

RECEIVED
AUG 18 1980

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
- LEFT UNDER DOOR
- OTHER _____

DATE OF SERVICE _____ / _____ / _____

TIME OF SERVICE _____

NAME OF DEPUTY & DIST. NO. _____

DATES SERVICE WAS ATTEMPTED 8/2/80 _____ / _____ / _____

- MOVED
- MORTUUS EST
- NO SUCH ADDRESS
- NEED APT NUMBER
- WIT UNKNOWN AT ADDRESS
- VACANT HOUSE
- ATTENDING SCHOOL WILL RET
- DISMISSED - DATE _____
- IN HOSPITAL NAME _____
- LEFT EMPLOYMENT - DATE _____
- ON MEDICAL LEAVE
- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN _____
- OTHER _____

E. Appel

DATE
08/13/80

CRIMINAL COURT OF BALTIMORE
LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5814

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY SUMMONED TO APPEAR AS DEFENDANT IN COURTROOM P 03
IN THE CRIM COURTHOUSE ON MON AUG. 25, 1980 ROOM 231 AT 09:30 AM

TYPE OF PROCEEDING DISPOSITION

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. _____

ASSOC. CASES ▶ 48004529 48004530 48004531

26

PLEASE READ CAREFULLY

ANY CRIMINAL CHARGE IS A VERY SERIOUS MATTER. CONVICTION MAY INVOLVE PENALTIES RANGING FROM HAVING YOU RECEIVE A CRIMINAL RECORD AS WELL AS THE POSSIBILITY OF A PRISON SENTENCE FOR CERTAIN CRIMES.

AN ATTORNEY CAN USUALLY BE OF GREAT ASSISTANCE TO YOU IN REACHING A FAIR CONCLUSION TO YOUR CASE. YOU ARE STRONGLY ADVISED TO IMMEDIATELY CONTACT A LAWYER SO THAT HE OR SHE IS READY TO APPEAR IN COURT WITH YOU FOR ARRAIGNMENT ON THE DATE SPECIFIED IN THE ENCLOSED SUMMONS.

IF YOU CANNOT AFFORD A LAWYER, YOU SHOULD IMMEDIATELY CONTACT THE OFFICE OF THE PUBLIC DEFENDER LOCATED IN ROOM 800 OF THE EQUITABLE BUILDING AT FAYETTE AND CALVERT STREETS, BALTIMORE, MARYLAND 21202.

STATE OF MARYLAND

VS.

RICHARD MCKENZIE

CASE # 48004528 - 31

MAY 29 3 10 PM '80
LAWRENCE J. HENRY
CLERK

IN THE
CRIMINAL COURT
OF JUN 4 '80 2L
BALTIMORE CITY

*
* * * * *

STATE'S DISCLOSURE

Now comes William A. Swisher, State's Attorney for Baltimore City, and Assistant State's Attorney for Baltimore City, and in accordance with the provisions of Rule 741 of the Maryland Rules of Procedure, respectfully state the following:

* 1. Any information known to the State which tends to negate the guilt of the defendant as to the offense charged or which tends to reduce his punishment therefore is attached hereto. If no such attachment is included, no such information is known to the State at this time.

2. Upon reasonable notice to this office, the defendant or his counsel may inspect, copy and photograph the entire trial file of the State's Attorney's Office except for those matters specifically excluded from discovery by Rule 741(c) (1), (2) and (3) of the Maryland Rules of Procedure.

Judith Gotterer
ASSISTANT STATE'S ATTORNEY
JUDITH GOTTERER

* Attached is a list of State's Witnesses.

I HEREBY CERTIFY that a copy of the State's Disclosure was this 29th day of May, 1980.

- served on the defendant
- served on the defendant's counsel
- mailed to the defendant's counsel.

Judith Gotterer
ASSISTANT STATE'S ATTORNEY
JUDITH GOTTERER

STATE OF MARYLAND

VS.

RICHARD MC KENZIE

CASE # 48004528 - 31

RECEIVED
MAY 29 3 10 PM '80
CLERK

IN THE

CRIMINAL COURT

OF BALTIMORE CITY

STATE OF MARYLAND

* * * * *

STATE'S DISCLOSURE

JUN 4 '80 2L

1. The following are witnesses whom the State may call:

Corporal Namon Brown
Executive Protection Division
Maryland State Police
269-3070

Detective Robert Jud
C. I. D.
Baltimore City Police Department

2. Expert Witnesses whom the State may call are:

J. L. Perry
Firearms Analyst
Baltimore City Police Department

Judith Gotterer

ASSISTANT STATE'S ATTORNEY
JUDITH GOTTERER

I HEREBY CERTIFY that a copy of the State's Disclosure was mailed to Phillip Potts, Esquire, 1207 Court Square Building, Baltimore, Maryland 21202 this 29 day of May, 1980.

Judith Gotterer

ASSISTANT STATE'S ATTORNEY
JUDITH GOTTERER

~~206~~
~~207~~
~~208~~

32 FEB 25 1980

JURY TRIAL PRAYED

(1 ARREST PER DOCUMENT)

CHARGE Aggravated Viol CRIMINAL COURT CASE NO. 48004528

DEFENDANT NAME McKenzie Richard J MI
LAST FIRST MI

ALIAS (IF APPLICABLE) _____

DEFENDANT ADDRESS 1879 Freedomway Unit 21213
HOUSE NO. & STREET ZIP CODE

OPD. NO. (IF APPLICABLE) _____ RACE B SEX M DATE OF BIRTH 6/22/48
MO/DAY/YR

DEFENDANT LOCATION Bail ARREST NO. BAR 409 IDENT. NO. 131-243
(BAIL/JAIL/DOC/OR)

DATE OF ARREST 1-3-80 DATE JURY PRAYED (PH) 2-7-80 PART 11 TRIAL 3/27/80
MO/DAY/YR MO/DAY/YR MO/DAY/YR

PREPARED BY: M. Kuehl Eastern Dist
IN DISTRICT COURT

WITNESSES (INCLUDE SEQUENCE NO. AND DISTRICT IF POLICE)

NAME Judd Detective MI
LAST FIRST MI

ADDRESS C.I.D. Salt Police Dept. ZIP CODE
HOUSE NO. & STREET

NAME Childs Gary - Sgt MI
LAST FIRST MI

ADDRESS C.I.D. Salt Police Dept. ZIP CODE
HOUSE NO. & STREET

NAME _____ MI
LAST FIRST MI

ADDRESS _____ ZIP CODE
HOUSE NO. & STREET

NAME _____ MI
LAST FIRST MI

ADDRESS _____ ZIP CODE
HOUSE NO. & STREET



DISTRICT COURT OF MARYLAND FOR

Located at *Edison*

Case No. *1-3-600969*

STATE OF MARYLAND

vs.

Richard McKenzie
(Defendant)
1879 Freedomway North
(Address)

Charge: (1) *Handgun Violation*

448-6605
(Telephone)

OAR 00409 Code GOC

(2) *Felony Poss Handgun*

I.D. *131-243* ORI

OAR 00410 Code GOC

3A-5811

STATEMENT OF CHARGES

The above named defendant has been arrested upon the following information or observation:

We received information from a confidential reliable informant who stated that a negro male wearing a brown hat, blue jacket, jeans and work shoes and a beard would have a pistol on his person and he was standing with a group of other negro males in 2000 BLK E. Eager St. Acting on this info we responded to the location and observed a negro male

(Continued on attached sheet 701A)

It is formally charged that the above named defendant

(1) on or about *3 January*, 19*80* at *2000 BLK E. Eager St.*
unlawfully did wear or carry on or about
his person a handgun on or about 1-3-80,
in Balto City, State of Maryland.

in violation of: Code of Public Local Law, Art. Sec. Ordinance
 Common Law of Md. Ann. Code of Md. Art. *27* Sec. *36-B* Ordinance

(2) on or about *3 January*, 19*80* at *2000 BLK E. Eager St.*
Unlawfully possessing a pistol or revolver to
use; Ruger 357 Mag # 150-23430, after having
been convicted of a crime of violence to wit
Burglary on or about 1966.

in violation of: Code of Public Local Law, Art. Sec. Ordinance
 Common Law of Md. Ann. Code of Md. Art. *27* Sec. *441-448* Ordinance

Continued on attached sheet 703A

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth in the foregoing document are true to the best of my knowledge, information and belief.

January 3, 1980
(Date)

Det Robert J Childs
(Arresting Officer)

DESCRIPTION: Driver's License #

Sex Race *W/M*

Wt. Hair Eyes Complexion D.O.B. *6-22-47*

Other:

INITIAL APPEARANCE

Bond Posted \$ *2,000*
 Recognizance Filed *full*
 Committed Pending Hearing

Hearing Date: *1-24-80-9AM*
 Location of Hearing *Edison*
1620 Edison Hwy

I have reviewed the Statement of Charges and have determined that

there is probable cause to detain the defendant
 there is not probable cause to detain the defendant and I have accordingly released him on his own recognizance.

Date: *1-4-80*

Buller
JUDICIAL OFFICER *136*

DATE
03/27/80

CRIMINAL COURT OF BALTIMORE

111 N. CALVERT STREET, BALTIMORE MD. 21202
396-5029

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY COMMANDED TO APPEAR IN PERSON IN COURTROOM P11
IN THE CIVIL COURTHOUSE ON THUR MARCH 27, 1980 ROOM 329C AT 09:00 AM

TYPE OF PROCEEDING ARRAIGNMENT

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE
CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO
BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH
YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY

CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. L 26

ASSOC. CASES ▶ 48004529 48004530 48004531

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
- LEFT UNDER DOOR
- OTHER

- MOVED
- MORTUUS EST
- NO SUCH ADDRESS
- NEED APT NUMBER
- WIT UNKNOWN AT ADDRESS
- VACANT HOUSE
- ATTENDING SCHOOL WILL RET
- DISMISSED - DATE _____
- IN HOSPITAL NAME _____
- LEFT EMPLOYMENT - DATE _____
- ON MEDICAL LEAVE
- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN
- OTHER

DATE OF SERVICE 3 / 22 / 80

TIME OF SERVICE 12:05 PM

NAME OF DEPUTY & DIST. NO. E. G. [Signature] 2-6

DATES SERVICE WAS ATTEMPTED 1 / 1 1 / 1 1 / 1 1 / 1

DATE
U 3/80

CRIMINAL COURT OF BALTIMORE

111 N. CALVERT STREET, BALTIMORE MD. 21202
396-5029

CASE NUMBER
48004528

Oliver

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY NOTIFIED TO PRODUCE THE DEFENDANT IN COURTROOM p11
IN THE CIVIL COURTHOUSE ON THUR MARCH 27, 1980 ROOM 329C AT 09:00 AM.

TYPE OF PROCEEDING ARRAIGNMENT

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

MCKENZIE, DANIEL L
6621 BOWMAN HILL DR
BALTIMORE, MD 21207

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. Mail

ASSOC. CASES ▶ 48004529 48004530 48004531

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
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- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN _____
- OTHER

DATE OF SERVICE 3 / 20 / 82

TIME OF SERVICE _____

NAME OF DEPUTY & DIST. NO. _____

DATES SERVICE WAS ATTEMPTED / / / / / / / /

DATE
09/80

CRIMINAL COURT OF BALTIMORE

LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5029

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

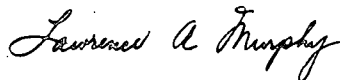
YOU ARE HEREBY SUMMONED TO APPEAR AS DEFENDANT
IN THE CRIM. COURTHOUSE ON MON JUNE 02, 1980 ROOM 215 AT 01:30 PM IN COURTROOM P08

TYPE OF PROCEEDING JURY TRIAL

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE
CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO
BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH
YOU TO COURT.

BY ORDER OF COURT

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213



LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO: 26

ASSOC. CASES ▶ 48004529 48004530 48004531

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
- LEFT UNDER DOOR
- OTHER

- MOVED
- MORTUUS EST
- NO SUCH ADDRESS
- NEED APT NUMBER
- WIT UNKNOWN AT ADDRESS
- VACANT HOUSE
- ATTENDING SCHOOL WILL RET
- DISMISSED - DATE
- IN HOSPITAL NAME
- LEFT EMPLOYMENT - DATE
- ON MEDICAL LEAVE
- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE
- RESIGNED DATE
- VACATION - WILL RETURN
- OTHER

DATE OF SERVICE 5 / 26 / 80

TIME OF SERVICE 11 AM

NAME OF DEPUTY & DIST. NO. E Cappel # 26

DATES SERVICE WAS ATTEMPTED / / / / / / / /

DATE
06/19/80

CRIMINAL COURT OF BALTIMORE

LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202

396-5029

CASE NUMBER

48004528

ID NUMBER

131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY NOTIFIED TO PRODUCE THE DEFENDANT IN COURTROOM P08
IN THE CRIM COURTHOUSE ON MON JUN 19 1980 ROOM 215 AT 01:30 PM

TYPE OF PROCEEDING JURY TRIAL

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

MCKENZIE, DANIEL L
6621 BOWMAN HILL DR
BALTIMORE, MD 21207

RECEIVED
1879

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. MAIL

ASSOC. CASES ▶ 48004529 48004530 48004531

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
- LEFT UNDER DOOR
- OTHER

- MOVED
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- IN HOSPITAL NAME _____
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- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN
- OTHER

DATE OF SERVICE 5 / 22 / 80

TIME OF SERVICE _____

NAME OF DEPUTY & DIST. NO. _____

DATES SERVICE WAS ATTEMPTED / / / / / / / /

DATE
//19//80

CRIMINAL COURT OF BALTIMORE
LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5029

CASE NUMBER
4-004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY SUMMONED TO APPEAR AS POLICE OFFICER IN COURTROOM P08
IN THE CRIM COURTHOUSE ON MON JUNE 02, 1980 ROOM 215 AT 01:30 PM

TYPE OF PROCEEDING JURY TRIAL

CHILD, GARY SGT
CRIMINAL INV. DIV.

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE
CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO
BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH
YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY

CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER

SHERIFF OF BALTIMORE CITY

DEPUTY NO.

L 30

ASSOC.
CASES

▶ 48004529 48004530 48004531

- SUMMONED WITNESS
- LEFT WITH WIFE
- LEFT WITH CHILD AGE _____
- LEFT WITH NEIGHBOR NAME _____
- LEFT UNDER DOOR
- OTHER GREIFZA

- MOVED
- MORTUUS EST
- NO SUCH ADDRESS
- NEED APT NUMBER
- WIT UNKNOWN AT ADDRESS
- VACANT HOUSE
- ATTENDING SCHOOL WILL RET
- DISMISSED - DATE _____
- IN HOSPITAL NAME _____
- LEFT EMPLOYMENT - DATE _____
- ON MEDICAL LEAVE
- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN
- OTHER

DATE OF SERVICE 5 / 21 / 80

TIME OF SERVICE 3:00 PM

NAME OF DEPUTY & DIST. NO. MARY E. KRALL

DATES SERVICE WAS ATTEMPTED / / / / / / / /

DATE
06/19/80

CRIMINAL COURT OF BALTIMORE
LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5029

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY SUMMONED TO APPEAR AS POLICE OFFICER IN COURTROOM P08
IN THE CRIM COURTHOUSE ON MON JUNE 02, 1980 ROOM 215 AT 01:30 PM

TYPE OF PROCEEDING JURY TRIAL

JUDD, DET
CRIMINAL INV. DIV.

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE
CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO
BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH
YOU TO COURT.

BY ORDER OF COURT

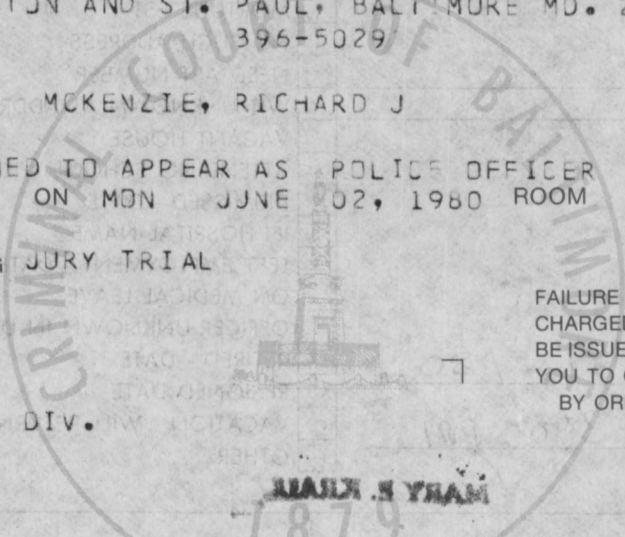
Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. L 30

ASSOC. CASES ▶ 48004529 48004530 48004531



MARY E. KILIAN

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- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
- RESIGNED DATE _____
- VACATION - WILL RETURN _____
- OTHER

DATE OF SERVICE 5 / 21 / 80

TIME OF SERVICE 3:00 PM

NAME OF DEPUTY & DIST. NO. MARY E. KRALL

DATES SERVICE WAS ATTEMPTED / / / / / / / /

CRIMINAL COURT OF BALTIMORE

DATE
06/23/80

LEXINGTON AND ST. PAUL, BALTIMORE MD. 21202
396-5158

CASE NUMBER
48004528

ID NUMBER
131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

YOU ARE HEREBY SUMMONED TO APPEAR AS DEFENDANT IN COURTROOM P01
IN THE CRIM COURTHOUSE ON MON JULY 07, 1980 ROOM 215 AT 10:00 AM

TYPE OF PROCEEDING DISPOSITION

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO.

L 26

ASSOC. CASES

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48004529 48004530 48004531

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- IN HOSPITAL NAME _____
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- OFFICER-UNKNOWN IN DEPT
- RETIRED - DATE _____
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- VACATION - WILL RETURN
- OTHER

DATE OF SERVICE 6 / 25 / 80

TIME OF SERVICE 10:50 AM

NAME OF DEPUTY & DIST. NO. E. Apple 26

DATES SERVICE WAS ATTEMPTED / / / / / / / /

CRIMINAL COURT OF BALTIMORE

CALVERT & FAYETTE STS.
BALTIMORE, MD. 21202

CASE NO. 48004528

STATE OF MARYLAND

VS.

Richard J. McKenzie

I.D. NO. _____

IN PART 1 ROOM 410 CRIMINAL COURTS BLDG.

(COURT HOUSE)

IN PART _____ ROOM _____ CIVIL COURTS BLDG.

(POST OFFICE)

WITNESS FOR STATE DEFENSE

AT 9:30 A.M. ON 7/7/80

DATE ISSUED 6/25/80

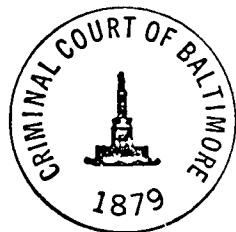
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YOU ARE HEREBY SUMMONED TO APPEAR IN COURT DAILY UNTIL DULY DISCHARGED. FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY



Detective Judd

BCPD

CID

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LEFT WITH NEIGHBOR NAME _____

LEFT UNDER DOOR

OTHER STANIEWICZ

DATE OF SERVICE 6/27/80

TIME OF SERVICE 3:00PM

NAME OF DEPUTY & DIST. NO. _____

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NEED APT NUMBER

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VACANT HOUSE

ATTENDING SCHOOL WILL RET

DISMISSED DATE

IN HOSPITAL NAME

LEFT EMPLOYMENT DATE

ON MEDICAL LEAVE

OFFICER UNKNOWN IN DEPT

RETIRED - DATE

RESIGNED DATE

VACATION - WILL RETURN

OTHER

MARY E. KRALL

CRIMINAL COURT OF BALTIMORE

CALVERT & FAYETTE STS.
BALTIMORE, MD. 21202

CASE NO. 49004528

STATE OF MARYLAND

VS.

Richard J McKenzie

I.D. NO. _____

IN PART 1 ROOM 410 CRIMINAL COURTS BLDG.

(COURT HOUSE)

IN PART _____ ROOM _____ CIVIL COURTS BLDG.

(POST OFFICE)

WITNESS FOR STATE DEFENSE

AT 9:30 A.M. ON 7/7/80

DATE ISSUED 6/25/80

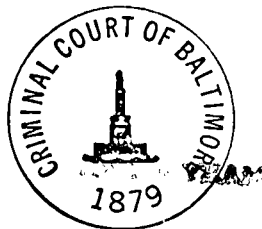
DEPUTY NO. _____

YOU ARE HEREBY SUMMONED TO APPEAR IN COURT DAILY UNTIL DULY DISCHARGED. FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE
GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY



Sergeant Gary Childs

BCPD

LCID

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LEFT WITH CHILD AGE _____

LEFT WITH NEIGHBOR NAME _____

LEFT UNDER DOOR

OTHER STANIEWICZ

DATE OF SERVICE 6/27/80

TIME OF SERVICE 3:00 PM

MARY E. KRALL OTHER

NAME OF DEPUTY & DIST. NO. _____

DATES SERVICE WAS ATTEMPTED / / / / / / / /

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MOVED

MORTUUS EST

NO SUCH ADDRESS

NEED APT NUMBER

WIT UNKNOWN AT ADDRESS

VACANT HOUSE

ATTENDING SCHOOL WILL RET

DISMISSED DATE

IN HOSPITAL NAME

LEFT EMPLOYMENT DATE

ON MEDICAL LEAVE

OFFICER UNKNOWN IN DEPT

RETIRED - DATE

RESIGNED DATE

VACATION - WILL RETURN

OTHER

JUN 18 4 31 PM '80
LAWRENCE J. MURPHY
CLERK

STATE OF MARYLAND

v.

RICHARD J. MCKENZIE

* CRIMINAL COURT
* OF
* BALTIMORE CITY
* PART VIII
* CASE NO.: 4800 4528
4800 4529
4800 4530
*

MEMORANDUM AND ORDER

The State called these three cases at the end of the afternoon docket of Criminal Court, Part VIII, on Monday, June 2, 1980. Defense counsel made clear his desire to be heard on the Motion to Suppress which had previously been filed in these cases. The Motion thus came on for hearing pursuant to Md. Rule 736e. Evidence was taken and counsel argued the merits of the Motion. Because the Court felt that it needed additional time to study the issues presented and to research the interesting questions of law presented, the matter was continued until Thursday, June 5, 1980, when counsel again were heard at length. Thereafter, the Motion was held, sub curia, for the writing of this opinion.

The Defendant is charged, per charging document 48004528, with the violation of Article 27, Section 36B, Md. Code, i.e., unlawful carrying of a handgun. The other charges, brought under Article 27, §§441-448 and §342,^{1/} are also related to the handgun. The Motion seeks to suppress the use of the handgun as evidence in each of the cases.

The facts concerning the seizure of the handgun were presented through the testimony of the arresting officer who was

^{1/} The theft charge was not called by the State on June 2, 1980. At the hearing on June 5, the State advised that the handgun was relevant to the theft charge as well as the charged handgun violations.

on duty in plain clothes with his partner on January 3, 1980. At that time, he received a phone call from an informant known, in police jargon, as "NU~~1~~-006". The informant phoned the detective on a line reserved for his use. ^{B. 7/7/80} The informant's voice was recognized by the detective. The detective testified that this informant, on numerous occasions, had provided information to the officer and that this prior information had led "to arrests of at least 20 persons."

The informant, during the phone call, advised the detective that a black male wearing a brown hat, blue jacket and work shoes, ^{2/} was in possession of a handgun, in his waistband, in the 2000 block of East Eager Street. The detective further testified that the informant said he "knew his information to be true" because he "personally saw [the male] remove the gun from his waistband".

Acting upon this present information, the detective and his partner obtained a police vehicle and proceeded to the 2000 block of East Eager Street, arriving "about five minutes later". When they arrived, they saw a group of persons gathered, without apparent motive. A person matching the description provided by the informant was spotted immediately. The detective approached him, "showed identification...placed [the Defendant] under arrest...[and] patted down the Defendant and seized from his rear waistband a magnum revolver". A subsequent check disclosed that the weapon was one that had been reported stolen.

2/

The informant also provided certain other descriptive details.

The simple, but difficult, issue is the constitutionality of the warrantless arrest and search,^{3/} which produced the handgun sought to be suppressed.

3/

At the hearing on Monday, June 2, the defense placed emphasis upon §36D, Article 27, Md. Code. That Section specifies, among other things, the steps which a law enforcement officer may take to search for a handgun when it is impractical to obtain a search warrant. Subsection(c) of §36D, however, provides that the provisions of §594B, Article 27, Md. Code, are unaffected by the enactment of §36D and, further, that §36D is to be considered as an additional provision of law rather than in substitution or in limitation of §594B.

While it may have been possible for the detective in this case to avail himself of the provisions of §36D, he clearly did not because, after identifying himself, he placed the Defendant under arrest. The arrest eliminated the limited search situation and called into play the provisions of §594B and the Fourth Amendment to the United States Constitution.

If §36D were applicable, the facts would force a determination that the detective did not take the steps provided in §36D(a)(2) & (3). This failure would have been a technical violation of the statute. But, Section 36D, on its face, contains no exclusionary provision. Whether violation of the provisions of Section 36D would require the application of the exclusionary rule, is an open question in Maryland law. Indeed, there is no Maryland case which squarely decides the issue of whether violation of a statute is grounds for suppression of evidence.

Note, however, that the issue is discussed in some detail in La Fave, Search and Seizure (1978), pp. 43-47. The United States Supreme Court has suppressed evidence upon violation of a statute, see Sabbath v. United States, 391 U.S. 585 (1968) but disenchantment with the exclusionary rule has caused courts to decline to apply it upon mere statutory violations. See United States v. Searp, 586 F.2d 1117, 1123-25 (6th Cir. 1978); State v. Valentine, 264 Or. 54, 504 P.2d 84 (1972). It should be noted, however, that a statute specifying the detailed procedure to be followed in a stop and frisk was held to include the exclusionary rule by a sharply divided court in State v. Valdez, 277 Or. 621, 561 P.2d 1006, 1011 (1977). Compare the sanctioning of stop and frisk in regard to handgun violations by the Supreme Court of New Jersey in State in Interest of H. B., 75 N.J. 243, 381 A.2d 759, 761-4 (1977). See also, Commonwealth v. Conway, 2 Mass. App. 547, 316 N.E.2d 757 (1974); State v. Haigh, 112 R.I. 740, 315 A.2d 431 (1974).

The plenary determination of the question whether the exclusionary rule applies upon violation of §36D must await another case. The Supreme Court's refusal to exclude evidence in such cases as, United States v. Donovan, 429 U.S. 413 (1977) and United States v. Caceres, U.S. , 99 S.Ct. 1465 (1979), may well suggest a result of non-exclusion. Also, note, State v. Eubanks, 283 N.C. 556, 196 S.E.2d 706 (1973); People v. Burdo, 56 Mich.App. 48, 223 N.W.2d 358 (1974). Cf. Gerstein v. Pugh, 420 U.S. 103 (1975); Street v. Surdyka, 492 F.2d 368 (4th Cir. 1974).

The General Assembly has provided a statutory predicate for warrantless arrests of the kind involved in this case. By Article 27, Section 594B(d), Md. Code:

"a police officer may arrest a person without a warrant if he has probable cause to believe;

(1) that an offense listed in subsection (e) of this section has been committed, and

(2) that the person has committed the offense and

(3) that unless the person is immediately arrested,

(i) He may not be apprehended,

(ii) He may cause injury to the person or damage to the property of one or more other persons, or

(iii) He may tamper with, dispose of, or destroy evidence."

Subsection (e) enumerates a lengthy number of misdemeanors which will call into play the provisions of subsection (d). Among the enumerated crimes in subsection (e) is "Section 36B (relating to handguns)"^{4/}.

Section 594B, allowing arrests, without warrant, upon probable cause and other conditions,^{5/} was enacted and codified by the 1969 General Assembly and signed into law on May 14 of that year. 1969 Laws of Maryland, ch. 561. The provision relating to handguns was enacted in 1972. See 1972 Laws of Maryland, ch. 13, §4.

4/

Enumerated as (XI) under Section 594B(e)(1).

5/

"The statute authorizing warrantless arrests does not affect the established definition of probable cause, and, as a matter of fact, subsections(a), (b) and (c) of the statute [Section 594B] are declarative of the common law rules long followed in this jurisdiction." Rife v. State, 9 Md.App. 658, 663 (1970).

At least since United States v. Watson, 423 U.S. 411 (1976), the judicial preference for warrants has clearly been ruled as failing to establish a constitutional bar to warrantless arrests upon probable cause.^{6/} Mr. Justice Powell, concurring in Watson, wrote:

"There is no historical evidence that the Framers or proponents of the Fourth Amendment...were at all concerned about warrantless arrests by local constables and other peace officers.***"

The historical momentum for acceptance of warrantless arrests, already strong at the adoption of the Fourth Amendment, has gained strength during the ensuing two centuries. Both the judiciary and the legislative bodies of this Nation repeatedly have placed their imprimaturs upon this practice...."

423 U.S. at 429-430.

Maryland "imprimaturs" are easily found. See Mitchell v. Lemon, 34 Md. 176, 181 (1871); Baltimore & O. R. Co. v. Cain, 81 Md. 97, 100, 102 (1895); Kirk & Son v. Garrett, 84 Md. 383, 405 (1896); Brish v. Carter, 98 Md. 445 (1904); Blager v. State, 162 Md. 664 (1932); United States v. Sam Chin, 24 F. Supp. 14, 16-17 (D. Md. 1938) (Chestnut, J.). The enactment of Section 594B(d), however, appears to have added a new class of offenses for which an arrest, properly founded, could be made without warrant, thereby, going beyond the common law rules applicable to misdemeanors, Callahan v. State, 163 Md. 298 (1932) and felonies, Nilson v. State, 272 Md. 179, 184 (1974); Mulcahy v. State, 221 Md. 413 (1960). Probable cause remains the necessary predicate, Rife v. State, 9 Md. App.

6/

The issues involved and the analysis required, but not made, in Watson are discussed in LaFave, Search and Seizure, §5.1b, pp. 224-233.

658, 663 (1970). An arrest, consonant with Section 594B(d), has received judicial approval in Thomas v. State, 39 Md. App. 217, 220 (1978). Cf. Hebron v. State, 13 Md. App. 134, 145-6 (1971).

The controlling question in this case is whether the arresting officer at the time of the arrest^{7/} had probable cause to believe that a Section 36B offense had been committed by the defendant and, unless arrested immediately, the defendant might not be apprehended, cause injury or destroy evidence.^{8/}

The arresting officer's information came entirely, except for the discovery of the described individual at the specified place, from an informant. Consequently, to establish the legality of the arrest, the Court must be informed:

"of some of the underlying circumstances from which the informant concluded that a crime was being or had been committed by the person to be arrested, and some of the underlying circumstances from which the police concluded that the informant was credible or his information reliable."

Bolesta v. State, 9 Md. App. 408, 412 (1970).

A two-pronged test is, thus, fashioned. First, "the veracity prong" requires a showing that the informant was credible; second, "the basis of knowledge prong" relates to a showing of how the informant got his information. See Stanley v. State, 19 Md. App. 507, 512-513 (1974), cert. den. 271 Md. 745 (1974).

Defendant can obtain no comfort from the officer's testimony that the informant's prior information had only led to arrests, the record being silent on any convictions. Veracity

^{7/}Westcott v. State, 11 Md. App. 305 (1971).

^{8/}Art. 27, §594B(d), Md. Code.

of an informant need not be measured by convictions; information leading to arrests will be credited. State v. Kraft, 269 Md. 583, 593 (1973); Sewell v. State, 34 Md. App. 691, 698 (1977).

In the case at bar, evidence relating to veracity of the informant comes from his prior credible performance, his use of a reserved phone line, and the officer's recognition of his voice. This is not a case like Barber v. State, 43 Md. App. 613, 616 (1979), where the informant had participated in only a single "controlled buy" that was unrelated to the defendant. Likewise, we are not faced with a record showing no reliability as was the case in Waugh v. State, 275 Md. 22, 32 (1975) or Colopietro v. State, 5 Md. App. 312 (1968). Cf. United States v. Manning, 448 F.2d 992, 995 (2d Cir. 1971). On the other hand, the informant here did not have the years of prior performance seen in Rollins v. State, 5 Md. App. 495, 498 (1968). However, "several months" of accurate reporting can establish reliability. See, e.g., Cornish & Gilman v. State, 6 Md. App. 167 (1969).

With respect to the basis for knowledge prong, the informant reported, according to the arresting officer's testimony, that he personally saw the described individual display the gun and gave current information of that person's present location. Compare Hundley v. State, 3 Md. App. 402 (1968); Green v. State, 8 Md. App. 352 (1969). Unlike the informant in Stanley v. State, 19 Md. App. 507, 513 (1974), where there was "no assurance that he arrived at his conclusion on the basis of that which he had seen with his own eyes....", the informant here described what

he said he personally saw.^{9/} Cf. Peters v. Rutledge, 397 F.2d 731, 734-5 (5th Cir. 1978).

To support admissibility, the State relies, almost solely, upon McCray v. Illinois, 386 U.S. 300 (1967). There, defendant was arrested without warrant and searched. Narcotics were seized and admitted as evidence. The arrest occurred after two officers had a conversation with an informant in their unmarked police car. The informant told the officers that he had seen the defendant selling narcotics at a certain intersection, that that the defendant had narcotics on his person and that he could be found at that certain intersection. The trio drove to the intersection where the informant pointed out the defendant who the officers subsequently observed walking with a woman, separating from her, meeting briefly with a man, proceeding alone and, finally, ducking between two buildings when he saw the police vehicle. The arrest followed. The informant, over a two year period, had provided, on between 15 and 25 occasions, accurate information on narcotics. The Supreme Court upheld the validity of the arrest and the

9/

In Stanley, Judge Moylan proceeds at length to explain how flawed "basis of knowledge" can be repaired through "self-verifying detail" which the officers may observe and thus bolster the belief that the informant saw what he informed about. Here, the only such detail is the description of the defendant, and the statement of his location. When the officers arrived in the 2000 block E. Eager Street, the "self verifying detail" was immediately verified.

subsequent search.^{10/}

In the case at bar, the informant did not finger the defendant; rather, he described him and gave his present location. In addition, unlike the officers in McCray, the detectives here did not reinforce the informant's statements by their own observation, aside from identifying the defendant through the description given to them. This latter distinction may well be a product of the type of offense involved in McCray as opposed to the one involved in the case at bar. Narcotics pushers ply their trade and their activities are subject to observation. Handgun concealers, on the other hand, would have no occasion to display their weapon, except, perhaps, to use the handgun in the commission of a crime.

Such a distinction in offenses might well cause defense counsel to suggest that the distinction may well be the very cause for enactment of Section 36D and that such section should

^{10/}

The Court wrote:

"...each of the officers described with specificity what the informer actually said, and why the officer thought the information was credible. The testimony of each of the officers informed the court of the underlying circumstances from which the informant concluded the narcotics were where he claimed they were.... Upon the basis of those circumstances, along with the officer's personal observations of the [defendant]... [warranted] a prudent man in believing that the [defendant] had committed or was committing an offense."

386 U.S. at 304.

Dissenters in State v. Kraft, 269 Md. 583, 621 (1973), stressed the officers personal observations as reinforcement to the informer's information. Compare Spinelli v. United States, 393 U.S. 410, 419, n.7 (1969).

have been used by the officer here.^{11/} Such argument would ignore, however, subsection (c) of Section 36D:

"Nothing in this section shall be construed to limit the right of any law enforcement officer to make any other type of search, seizure and arrest which may be permitted by law, and the provisions hereof shall be in addition to and not in substitution of or limited by the provisions of §594B of this Article."

It would seem clear, therefore, that the State, relying on Section 594B, can seek to support the arrest and, thereby, validate the subsequent search. Violation of Section 36B is one of the crimes which allows Section 594B to be utilized. Under Section 36B, carrying a handgun creates a presumptive violation with the burden on the defendant to demonstrate that there is an exception to fit his conduct. Jordan v. State, 24 Md. App. 267, 274 (1975). Cf. Poore v. State, 39 Md. App. 44, 73 (1978). Here, clearly, based on the informer's remarks, the officer had reason to believe a Section 36B offense was being committed. See McCray v. Illinois, supra.

Under Section 594B(a), an officer may arrest, without warrant, any person who commits a misdemeanor in his presence or view. The State, however, cannot claim that the arrest here, and, therefore, the consequent search, was valid because a misdemeanor

^{11/}
See footnote 3, supra.

At the hearing on June 5, defense counsel relied heavily upon Ballou v. Commonwealth of Massachusetts, 403 F.2d 982 (1st Cir. 1968) where the Court upheld a stop and frisk for weapons where it pointedly noted an arrest would have been improper. But, in Ballou, there was an "unidentified informant". The veracity of the informer could not be demonstrated. That fact distinguishes, wholly, Ballou from the case at bar.

had been committed in the presence of the officer. Cf. Davis v. State, 208 Md. 377, 382 (1955). Although a misdemeanor may be committed in the presence of an officer when the crime "is perceptible to the officer's senses, whether they be visual, auditory or olfactory," Johnson v. State, 8 Md. App. 187, 191 (1969), any grounds for suspecting the handgun violation in this case came through the informer's information, not the officer's senses. It has long been the rule in Maryland that, in such a situation, there is no ground for warrantless arrest based upon a misdemeanor being committed in the officer's presence. See Stanley v. State, 230 Md. 188, 191-2 (1962) where Judge (later Chief Judge) Hammond wrote:

"The State argues that this message was enough to give the arresting officers reasonable cause to believe that a misdemeanor was being committed in their presence by the appellant, and urges us to broaden the right to arrest in misdemeanor cases so that an arrest would be valid if police officers had probable cause to believe a crime has been or is being committed in their presence and to believe the suspect to be the misdemeanant. Assuming, without deciding, that the officers had probable cause in the present case, in no way based on current evidence of their senses, to believe these things, we decline to overrule the long line of cases in this Court holding that such probable cause alone is not enough in misdemeanor cases. If the often anomalous and illogical distinction in Maryland between felonies and misdemeanors is to be changed, the Legislature should give the matter consideration."

Indeed, it may be argued that Section 594B(d), quoted above at page 4, is the legislative response.

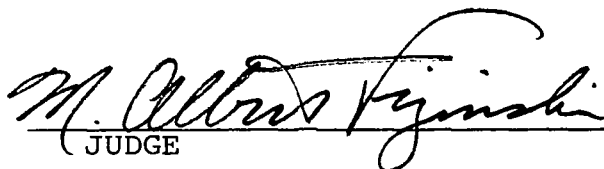
Section 594B(d) does not eliminate Maryland's "anomalous and illogical distinction" between felonies and misdemeanors; rather, for designated misdemeanors, it expands the law officer's authority to arrest for misdemeanors. Under Section 594B(d), for designated misdemeanors, an officer need not view the crime to make an arrest; it is enough if he has probable cause to believe the crime has been committed and probable cause to believe that, unless an arrest is made, the suspected violator may not be apprehended, cause injury or dispose of evidence. In the case at bar, there was probable cause to believe a Section 36B offense had been committed by the person arrested, i.e., the Defendant. We reach that conclusion on the basis of the analysis suggested in Stanley v. State, 19 Md. App. 507 (1974), discussed herein at pages 6-8, and the holding in McCray, discussed and analyzed herein at pages 8-9. Having reached that point, it is still necessary to consider whether the officer had probable cause to believe that, unless an immediate arrest was effected, the defendant might not be apprehended, or might cause injury, or might dispose of evidence. On this point the record is sparse. Aside from the officer's testimony that the person was "mobile" - i.e., apparently able to leave the place where he was said to be - there was no evidence introduced on this point. Not much, if any, additional evidence was available in Thomas v. State, 39 Md. App. 217, 218-221 (1978) where the Court of Special Appeals utilized Section 594B(d) to find probable cause where a described individual, suspected of larceny, was seen going into a grocery store so that, the Court surmised id at 221, the fruits of the larceny might be disposed of or the individual "might possibly escape altogether". Thomas is precedent for the additional probable cause required here.

Because of this conclusion, this Court will deny the Motion to Suppress here.

This Court is not unmindful of the Court of Appeals decision in Anderson v. State, 282 Md. 701 (1978) and that of the Court of Special Appeals in Price v. State, 37 Md. App. 248 (1977), both stop and frisk cases. It is recognized, too, that the grounds for a stop and frisk are less restrictive than for an arrest, Adams v. Williams, 407 U.S. 143 (1972). Yet, unlike the case at bar, in Anderson, there was no present and verified report from a proven reliable informer; an officer merely observed in a high crime area two black males, six days after a robbery, look back at an unmarked police car. The police action in Anderson was "wholly unreasonable", 282 Md. at 707, but it was not the action taken here upon the grounds present here. Likewise, Price is distinguishable, because there the police officer acted upon a mere "radio alert" which "did not disclose the basis for the issuance of the lookout" 37 Md. App. at 251; indeed, in Price, no one knew the origin of the alert information, 37 Md. App. at 252, 254-5.

For the future, however, the police might know that a more easily justified course of action would call for reliance upon Section 36D unless there was some indication that the steps suggested there would be too dangerous. Note should be taken of State in Interest of H. B., 75 N.J. 243, 391 A.2d 759 (1977); and, also, of the discussion in footnote 3 of the possible inapplicability of the exclusionary rule to a statutory violation.

WHEREFORE, for the foregoing reasons, the Motion to Suppress is DENIED.


JUDGE

Copies of the foregoing were mailed this 16th day of June, 1980 to Judy Gotterer, Esquire, Assistant State's Attorney, 206 Court House, Baltimore, MD 21202 and to Phillip L. Potts, Esquire, 1207 Court Square Building, Baltimore, MD 21202.


JUDGE

RECEIVED
CRIMINAL COURT
BALTIMORE, MD.

JUN 16 4 34 PM '80

STATE OF MARYLAND

LAWRENCE A. MURPHY
CLERK

IN THE

v.

* CRIMINAL COURT

*

OF

RICHARD J. MCKENZIE

*

BALTIMORE CITY

*

PART VIII

*

CASE NO.: 4800 4528

*

4800 4529

*

4800 4530

MEMORANDUM AND ORDER

The State called these three cases at the end of the afternoon docket of Criminal Court, Part VIII, on Monday, June 2, 1980. Defense counsel made clear his desire to be heard on the Motion to Suppress which had previously been filed in these cases. The Motion thus came on for hearing pursuant to Md. Rule 736e. Evidence was taken and counsel argued the merits of the Motion. Because the Court felt that it needed additional time to study the issues presented and to research the interesting questions of law presented, the matter was continued until Thursday, June 5, 1980, when counsel again were heard at length. Thereafter, the Motion was held, sub curia, for the writing of this opinion.

The Defendant is charged, per charging document 48004528, with the violation of Article 27, Section 36B, Md. Code, i.e., unlawful carrying of a handgun. The other charges, brought under Article 27, §§441-448 and §342,^{1/} are also related to the handgun. The Motion seeks to suppress the use of the handgun as evidence in each of the cases.

The facts concerning the seizure of the handgun were presented through the testimony of the arresting officer who was

1/

The theft charge was not called by the State on June 2, 1980. At the hearing on June 5, the State advised that the handgun was relevant to the theft charge as well as the charged handgun violations.

on duty in plain clothes with his partner on January 3, 1980. At that time, he received a phone call from an informant known, in police jargon, as "NUR-006". The informant phoned the detective on a line reserved for his use. The informant's voice was recognized by the detective. The detective testified that this informant, on numerous occasions, had provided information to the officer and that this prior information had led "to arrests of at least 20 persons."

The informant, during the phone call, advised the detective that a black male wearing a brown hat, blue jacket and work shoes,^{2/} was in possession of a handgun, in his waistband, in the 2000 block of East Eager Street. The detective further testified that the informant said he "knew his information to be true" because he "personally saw [the male] remove the gun from his waistband".

Acting upon this present information, the detective and his partner obtained a police vehicle and proceeded to the 2000 block of East Eager Street, arriving "about five minutes later". When they arrived, they saw a group of persons gathered, without apparent motive. A person matching the description provided by the informant was spotted immediately. The detective approached him, "showed identification...placed [the Defendant] under arrest...[and] patted down the Defendant and seized from his rear waistband a magnum revolver". A subsequent check disclosed that the weapon was one that had been reported stolen.

2/

The informant also provided certain other descriptive details.

The simple, but difficult, issue is the constitutionality of the warrantless arrest and search,^{3/} which produced the handgun sought to be suppressed.

3/

At the hearing on Monday, June 2, the defense placed emphasis upon §36D, Article 27, Md. Code. That Section specifies, among other things, the steps which a law enforcement officer may take to search for a handgun when it is impractical to obtain a search warrant. Subsection(c) of §36D, however, provides that the provisions of §594B, Article 27, Md. Code, are unaffected by the enactment of §36D and, further, that §36D is to be considered as an additional provision of law rather than in substitution or in limitation of §594B.

While it may have been possible for the detective in this case to avail himself of the provisions of §36D, he clearly did not because, after identifying himself, he placed the Defendant under arrest. The arrest eliminated the limited search situation and called into play the provisions of §594B and the Fourth Amendment to the United States Constitution.

If §36D were applicable, the facts would force a determination that the detective did not take the steps provided in §36D(a)(2) & (3). This failure would have been a technical violation of the statute. But, Section 36D, on its face, contains no exclusionary provision. Whether violation of the provisions of Section 36D would require the application of the exclusionary rule, is an open question in Maryland law. Indeed, there is no Maryland case which squarely decides the issue of whether violation of a statute is grounds for suppression of evidence.

Note, however, that the issue is discussed in some detail in La Fave, Search and Seizure (1978), pp. 43-47. The United States Supreme Court has suppressed evidence upon violation of a statute, see Sabbath v. United States, 391 U.S. 585 (1968) but disenchantment with the exclusionary rule has caused courts to decline to apply it upon mere statutory violations. See United States v. Searp, 586 F.2d 1117, 1123-25 (6th Cir. 1978); State v. Valentine, 264 Or. 54, 504 P.2d 84 (1972). It should be noted, however, that a statute specifying the detailed procedure to be followed in a stop and frisk was held to include the exclusionary rule by a sharply divided court in State v. Valdez, 277 Or. 621, 561 P.2d 1006, 1011 (1977). Compare the sanctioning of stop and frisk in regard to handgun violations by the Supreme Court of New Jersey in State in Interest of H. B., 75 N.J. 243, 381 A.2d 759, 761-4 (1977). See also, Commonwealth v. Conway, 2 Mass. App. 547, 316 N.E.2d 757 (1974); State v. Haigh, 112 R.I. 740, 315 A.2d 431 (1974).

The plenary determination of the question whether the exclusionary rule applies upon violation of §36D must await another case. The Supreme Court's refusal to exclude evidence in such cases as, United States v. Donovan, 429 U.S. 413 (1977) and United States v. Caceres, U.S. , 99 S.Ct. 1465 (1979), may well suggest a result of non-exclusion. Also, note, State v. Eubanks, 283 N.C. 556, 196 S.E.2d 706 (1973); People v. Burdo, 56 Mich.App. 48, 223 N.W.2d 358 (1974). Cf. Gerstein v. Pugh, 420 U.S. 103 (1975); Street v. Surdyka, 492 F.2d 368 (4th Cir. 1974).

The General Assembly has provided a statutory predicate for warrantless arrests of the kind involved in this case. By Article 27, Section 594B(d), Md. Code:

"a police officer may arrest a person without a warrant if he has probable cause to believe;

(1) that an offense listed in subsection (e) of this section has been committed, and

(2) that the person has committed the offense and

(3) that unless the person is immediately arrested,

(i) He may not be apprehended,

(ii) He may cause injury to the person or damage to the property of one or more other persons, or

(iii) He may tamper with, dispose of, or destroy evidence."

Subsection (e) enumerates a lengthy number of misdemeanors which will call into play the provisions of subsection (d). Among the enumerated crimes in subsection (e) is "Section 36B (relating to handguns)^{4/}".

Section 594B, allowing arrests, without warrant, upon probable cause and other conditions,^{5/} was enacted and codified by the 1969 General Assembly and signed into law on May 14 of that year. 1969 Laws of Maryland, ch. 561. The provision relating to handguns was enacted in 1972. See 1972 Laws of Maryland, ch. 13, §4.

^{4/}

Enumerated as (XI) under Section 594B(e)(1).

^{5/}

"The statute authorizing warrantless arrests does not affect the established definition of probable cause, and, as a matter of fact, subsections(a), (b) and (c) of the statute [Section 594B] are declarative of the common law rules long followed in this jurisdiction." Rife v. State, 9 Md.App. 658, 663 (1970).

At least since United States v. Watson, 423 U.S. 411 (1976), the judicial preference for warrants has clearly been ruled as failing to establish a constitutional bar to warrantless arrests upon probable cause.^{6/} Mr. Justice Powell, concurring in Watson, wrote:

"There is no historical evidence that the Framers or proponents of the Fourth Amendment...were at all concerned about warrantless arrests by local constables and other peace officers.***

The historical momentum for acceptance of warrantless arrests, already strong at the adoption of the Fourth Amendment, has gained strength during the ensuing two centuries. Both the judiciary and the legislative bodies of this Nation repeatedly have placed their imprimaturs upon this practice...."

423 U.S. at 429-430.

Maryland "imprimaturs" are easily found. See Mitchell v. Lemon, 34 Md. 176, 181 (1871); Baltimore & O. R. Co. v. Cain, 81 Md. 97, 100, 102 (1895); Kirk & Son v. Garrett, 84 Md. 383, 405 (1896); Brish v. Carter, 98 Md. 445 (1904); Blager v. State, 162 Md. 664 (1932); United States v. Sam Chin, 24 F. Supp. 14, 16-17 (D. Md. 1938) (Chestnut, J.). The enactment of Section 594B(d), however, appears to have added a new class of offenses for which an arrest, properly founded, could be made without warrant, thereby, going beyond the common law rules applicable to misdemeanors, Callahan v. State, 163 Md. 298 (1932) and felonies, Nilson v. State, 272 Md. 179, 184 (1974); Mulcahy v. State, 221 Md. 413 (1960). Probable cause remains the necessary predicate, Rife v. State, 9 Md. App.

^{6/}

The issues involved and the analysis required, but not made, in Watson are discussed in LaFave, Search and Seizure, §5.1b, pp. 224-233.

658, 663 (1970). An arrest, consonant with Section 594B(d), has received judicial approval in Thomas v. State, 39 Md. App. 217, 220 (1978). Cf. Hebron v. State, 13 Md. App. 134, 145-6 (1971).

The controlling question in this case is whether the arresting officer at the time of the arrest^{7/} had probable cause to believe that a Section 36B offense had been committed by the defendant and, unless arrested immediately, the defendant might not be apprehended, cause injury or destroy evidence.^{8/}

The arresting officer's information came entirely, except for the discovery of the described individual at the specified place, from an informant. Consequently, to establish the legality of the arrest, the Court must be informed:

"of some of the underlying circumstances from which the informant concluded that a crime was being or had been committed by the person to be arrested, and some of the underlying circumstances from which the police concluded that the informant was credible or his information reliable."

Bolesta v. State, 9 Md. App. 408, 412 (1970).

A two-pronged test is, thus, fashioned. First, "the veracity prong" requires a showing that the informant was credible; second, "the basis of knowledge prong" relates to a showing of how the informant got his information. See Stanley v. State, 19 Md. App. 507, 512-513 (1974), cert. den. 271 Md. 745 (1974).

Defendant can obtain no comfort from the officer's testimony that the informant's prior information had only led to arrests, the record being silent on any convictions. Veracity

^{7/} Westcott v. State, 11 Md. App. 305 (1971).

^{8/} Art. 27, §594B(d), Md. Code.

of an informant need not be measured by convictions; information leading to arrests will be credited. State v. Kraft, 269 Md. 583, 593 (1973); Sewell v. State, 34 Md. App. 691, 698 (1977).

In the case at bar, evidence relating to veracity of the informant comes from his prior credible performance, his use of a reserved phone line, and the officer's recognition of his voice. This is not a case like Barber v. State, 43 Md. App. 613, 616 (1979), where the informant had participated in only a single "controlled buy" that was unrelated to the defendant. Likewise, we are not faced with a record showing no reliability as was the case in Waugh v. State, 275 Md. 22, 32 (1975) or Colopietro v. State, 5 Md. App. 312 (1968). Cf. United States v. Manning, 448 F.2d 992, 995 (2d Cir. 1971). On the other hand, the informant here did not have the years of prior performance seen in Rollins v. State, 5 Md. App. 495, 498 (1968). However, "several months" of accurate reporting can establish reliability. See, e.g., Cornish & Gilman v. State, 6 Md. App. 167 (1969).

With respect to the basis for knowledge prong, the informant reported, according to the arresting officer's testimony, that he personally saw the described individual display the gun and gave current information of that person's present location. Compare Hundley v. State, 3 Md. App. 402 (1968); Green v. State, 8 Md. App. 352 (1969). Unlike the informant in Stanley v. State, 19 Md. App. 507, 513 (1974), where there was "no assurance that he arrived at his conclusion on the basis of that which he had seen with his own eyes....", the informant here described what

he said he personally saw.^{9/} Cf. Peters v. Rutledge, 397 F.2d 731, 734-5 (5th Cir. 1978).

To support admissibility, the State relies, almost solely, upon McCray v. Illinois, 386 U.S. 300 (1967). There, defendant was arrested without warrant and searched. Narcotics were seized and admitted as evidence. The arrest occurred after two officers had a conversation with an informant in their unmarked police car. The informant told the officers that he had seen the defendant selling narcotics at a certain intersection, that that the defendant had narcotics on his person and that he could be found at that certain intersection. The trio drove to the intersection where the informant pointed out the defendant who the officers subsequently observed walking with a woman, separating from her, meeting briefly with a man, proceeding alone and, finally, ducking between two buildings when he saw the police vehicle. The arrest followed. The informant, over a two year period, had provided, on between 15 and 25 occasions, accurate information on narcotics. The Supreme Court upheld the validity of the arrest and the

9/

In Stanley, Judge Moylan proceeds at length to explain how flawed "basis of knowledge" can be repaired through "self-verifying detail" which the officers may observe and thus bolster the belief that the informant saw what he informed about. Here, the only such detail is the description of the defendant, and the statement of his location. When the officers arrived in the 2000 block E. Eager Street, the "self verifying detail" was immediately verified.

subsequent search. ^{10/}

In the case at bar, the informant did not finger the defendant; rather, he described him and gave his present location. In addition, unlike the officers in McCray, the detectives here did not reinforce the informant's statements by their own observation, aside from identifying the defendant through the description given to them. This latter distinction may well be a product of the type of offense involved in McCray as opposed to the one involved in the case at bar. Narcotics pushers ply their trade and their activities are subject to observation. Handgun concealers, on the other hand, would have no occasion to display their weapon, except, perhaps, to use the handgun in the commission of a crime.

Such a distinction in offenses might well cause defense counsel to suggest that the distinction may well be the very cause for enactment of Section 36D and that such section should

10/

The Court wrote:

"...each of the officers described with specificity what the informer actually said, and why the officer thought the information was credible. The testimony of each of the officers informed the court of the underlying circumstances from which the informant concluded the narcotics were where he claimed they were.... Upon the basis of those circumstances, along with the officer's personal observations of the [defendant]... [warranted] a prudent man in believing that the [defendant] had committed or was committing an offense."

386 U.S. at 304.

Dissenters in State v. Kraft, 269 Md. 583, 621 (1973), stressed the officers personal observations as reinforcement to the informer's information. Compare Spinelli v. United States, 393 U.S. 410, 419, n.7 (1969).

have been used by the officer here.^{11/} Such argument would ignore, however, subsection (c) of Section 36D:

"Nothing in this section shall be construed to limit the right of any law enforcement officer to make any other type of search, seizure and arrest which may be permitted by law, and the provisions hereof shall be in addition to and not in substitution of or limited by the provisions of §594B of this Article."

It would seem clear, therefore, that the State, relying on Section 594B, can seek to support the arrest and, thereby, validate the subsequent search. Violation of Section 36B is one of the crimes which allows Section 594B to be utilized. Under Section 36B, carrying a handgun creates a presumptive violation with the burden on the defendant to demonstrate that there is an exception to fit his conduct. Jordan v. State, 24 Md. App. 267, 274 (1975). Cf. Poore v. State, 39 Md. App. 44, 73 (1978). Here, clearly, based on the informer's remarks, the officer had reason to believe a Section 36B offense was being committed. See McCray v. Illinois, supra.

Under Section 594B(a), an officer may arrest, without warrant, any person who commits a misdemeanor in his presence or view. The State, however, cannot claim that the arrest here, and, therefore, the consequent search, was valid because a misdemeanor

^{11/} See footnote 3, supra.

At the hearing on June 5, defense counsel relied heavily upon Ballou v. Commonwealth of Massachusetts, 403 F.2d 982 (1st Cir. 1968) where the Court upheld a stop and frisk for weapons where it pointedly noted an arrest would have been improper. But, in Ballou, there was an "unidentified informant". The veracity of the informer could not be demonstrated. That fact distinguishes, wholly, Ballou from the case at bar.

had been committed in the presence of the officer. Cf. Davis v. State, 208 Md. 377, 382 (1955). Although a misdemeanor may be committed in the presence of an officer when the crime "is perceptible to the officer's senses, whether they be visual, auditory or olfactory," Johnson v. State, 8 Md. App. 187, 191 (1969), any grounds for suspecting the handgun violation in this case came through the informer's information, not the officer's senses. It has long been the rule in Maryland that, in such a situation, there is no ground for warrantless arrest based upon a misdemeanor being committed in the officer's presence. See Stanley v. State, 230 Md. 188, 191-2 (1962) where Judge (later Chief Judge) Hammond wrote:

"The State argues that this message was enough to give the arresting officers reasonable cause to believe that a misdemeanor was being committed in their presence by the appellant, and urges us to broaden the right to arrest in misdemeanor cases so that an arrest would be valid if police officers had probable cause to believe a crime has been or is being committed in their presence and to believe the suspect to be the misdemeanant. Assuming, without deciding, that the officers had probable cause in the present case, in no way based on current evidence of their senses, to believe these things, we decline to overrule the long line of cases in this Court holding that such probable cause alone is not enough in misdemeanor cases. If the often anomalous and illogical distinction in Maryland between felonies and misdemeanors is to be changed, the Legislature should give the matter consideration."

Indeed, it may be argued that Section 594B(d), quoted above at page 4, is the legislative response.

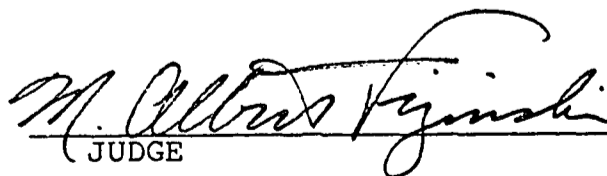
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Because of this conclusion, this Court will deny the Motion to Suppress here.

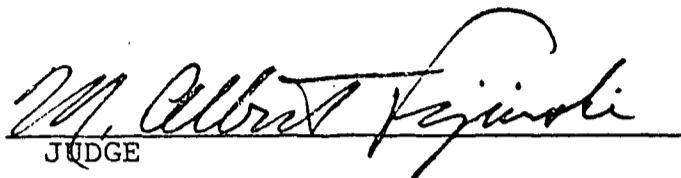
This Court is not unmindful of the Court of Appeals decision in Anderson v. State, 282 Md. 701 (1978) and that of the Court of Special Appeals in Price v. State, 37 Md. App. 248 (1977), both stop and frisk cases. It is recognized, too, that the grounds for a stop and frisk are less restrictive than for an arrest, Adams v. Williams, 407 U.S. 143 (1972). Yet, unlike the case at bar, in Anderson, there was no present and verified report from a proven reliable informer; an officer merely observed in a high crime area two black males, six days after a robbery, look back at an unmarked police car. The police action in Anderson was "wholly unreasonable", 282 Md. at 707, but it was not the action taken here upon the grounds present here. Likewise, Price is distinguishable, because there the police officer acted upon a mere "radio alert" which "did not disclose the basis for the issuance of the lookout" 37 Md. App. at 251; indeed, in Price, no one knew the origin of the alert information, 37 Md. App. at 252, 254-5.

For the future, however, the police might know that a more easily justified course of action would call for reliance upon Section 36D unless there was some indication that the steps suggested there would be too dangerous. Note should be taken of State in Interest of H. B., 75 N.J. 243, 391 A.2d 759 (1977); and, also, of the discussion in footnote 3 of the possible inapplicability of the exclusionary rule to a statutory violation.

WHEREFORE, for the foregoing reasons, the Motion to Suppress is DENIED.


JUDGE

Copies of the foregoing were mailed this 16th day of June, 1980 to Judy Gotterer, Esquire, Assistant State's Attorney, 206 Court House, Baltimore, MD 21202 and to Phillip L. Potts, Esquire, 1207 Court Square Building, Baltimore, MD 21202.


JUDGE

STATE OF MARYLAND

IN THE

vs.

RECEIVED
CRIMINAL COURT
MAY 27 10 12 AM '80

CRIMINAL COURT

RICHARD MCKENZIE

OF

Ind. No.: 48004528-31

LAWRENCE A. MURPHY
CLERK

BALTIMORE CITY

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PT 8

MOTION TO SUPPRESS

The Defendant, by his/~~her~~ attorney, Phillip L. Potts, pursuant to Maryland Rule 736 says:


1. Because of impermissibly suggestive pretrial identification procedures used by the State, any in-court identification of the Defendant by prosecution witnesses will be tainted and give rise to a substantial likelihood of irreparable misidentification;
2. Articles of evidence to be introduced by the State were obtained as the result of an illegal search and seizure in violation of Defendant's constitutional rights; and
3. Admissions, statements, and/or confessions of Defendant were not voluntary, and/or were elicited during custodial interrogation without the observance of constitutionally mandated procedural safeguards.

WHEREFORE, Defendant requests that this Court suppress:

1. Any in-court identification of Defendant resulting from constitutionally impermissible pretrial identifications;
2. All evidence obtained by the State as a result of constitutionally impermissible searches and seizures; and
3. All admissions, statements, and/or confessions that were either involuntary or elicited during custodial interrogation without the mandated Constitutional safeguards.

The Defendant requests a hearing on these issues.

Respectfully,



Phillip L. Potts
1207 Court Square Building

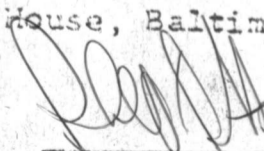
Baltimore, Maryland 21202

(301) 727-8666

Attorney for Defendant

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 1980, a copy of the foregoing Motion was delivered to the Office of the State's Attorney, Court House, Baltimore City, Md.



Phillip L. Potts

RECEIVED
CRIMINAL COURT
MAY 27 10 04 AM '80
LAWRENCE A. MURPHY
CLERK

STATE OF MARYLAND

vs.

RICHARD MCKENZIE

IND. NO.

48004528-41
48004528-31

RECEIVED
CRIMINAL COURT
MAY 22 10 12 AM '80
LAWRENCE A. MURPHY
CLERK

IN THE
CRIMINAL COURT
OF
BALTIMORE CITY

MAY 22 1980 -20

DEFENDANT'S REQUESTS FOR DISCOVERY AND MOTION TO PRODUCE DOCUMENTS

The following requests are made in accordance with Maryland Rule 741, on behalf of the defendant in the above-entitled action, by his undersigned attorney, and

a. The requests extend to material and information in the possession or control of the State's Attorney, members of his staff and any others who have participated in the investigation or evaluation of the case and who either regularly report or, with reference to the particular case, have reported to the State's Attorney or his office.

b. The purpose of these requests is to obtain disclosure of material and information to the fullest extent authorized and directed by Maryland Rule 741; and this general purpose shall supersede any language or expression which might otherwise appear to be a limitation upon the object or scope of any request.

c. Captions or headings used to separate paragraphs are no part of the requests but are for convenience only.

d. Material and information discovered by the State's Attorney after his initial compliance with these requests, shall be furnished promptly after such discovery in accordance with Maryland Rule 741 f.

e. These requests in no way should be considered a waiver of the information required to be furnished without request by the State's Attorney pursuant to Rule 741 a to the defendant.

The State's Attorney is requested to:

1. Furnish to the defendant (a) any material or information which tends to negate the guilt of the defendant as to the offense(s) charged, (b) any material or information within his possession or control which would tend to reduce the defendant's punishment for such offense(s) (c) any relevant material or information regarding specific searches and seizures (including but not limited to AFR inventory pursuant to Md. Rule 730), (d) any relevant material or information regarding the acquisition of statements made by the defendant, (f) any relevant material or information regarding pretrial identification of the defendant by a witness for the State.

le 741
& 730

Witnesses

2. Disclose the name and address of each person whom the State intends to call as a witness at a hearing or trial to prove its case in chief.

3. Disclose the name and address of each person whom the State intends to call as a witness at a hearing or trial to rebut alibi testimony.

4. To furnish the defendant with the names, addresses and physical descriptions of any persons other than the defendant who were arrested or otherwise taken into custody by police or prosecution officials as a possible suspect in this case in which the defendant is charged.

Statements of the defendant

5. Furnish a copy of each written or recorded statement made by the defendant to a State agent which the State intends to use at a hearing or trial.

6. Furnish the substance of each oral statement made by the defendant to a State agent which the State intends to use at a hearing or trial.

7. Furnish a copy of all reports of each oral statement made by the defendant to a State agent which the State intends to use at a hearing or trial.

Statements of co-defendants, and/or accomplices, and/or accessories after the fact

8. Furnish a copy of each written or recorded statement made by a co-defendant, and/or accomplice, and/or accessory after the fact to a State agent which the State intends to use at a hearing or trial.

9. Furnish the substance of each oral statement made by a co-defendant, and/or accomplice, and/or accessory after the fact to a State agent which the State intends to use at a hearing or trial.

10. Furnish a copy of all reports of each oral statement made by a co-defendant, and/or accomplice, and/or accessory after the fact to a State agent which the State intends to use at a hearing or trial.

Reports of experts

11. Produce and permit the defendant to inspect and copy all written reports or statements made in connection with the defendant's case by each expert consulted by the State, including the results of any physical or mental examination, scientific test, experiment or comparison.

12. Furnish the substance of any oral report and conclusion made in connection with the defendant's case by each expert consulted by the State, including the results of any physical or mental examination, scientific test, experiment or comparison.

STATE OF MARYLAND

vs.

RICHARD MCKENZIE

IND. NO. 480004528-31

*
*
*
*
*

IN THE
CRIMINAL COURT
OF
BALTIMORE CITY

ORDER

Consideration has been given to the foregoing Request for Discovery and Motion.

It is this day of May, 1980
by the Criminal Court of Baltimore City

ORDERED that the State's Attorney for Baltimore be required and he is hereby required to answer all questions propounded to him in said Requests for Discovery and Motion.

JUDGE

STATE OF MARYLAND

IN THE
CRIMINAL COURT
OF
BALTIMORE CITY

VS.

Richard McKenzie
48004528-31

STATE'S DISCLOSURE

Now comes William A. Swisher, State's Attorney for Baltimore City, and *M. Leopold* Assistant State's Attorney for Baltimore City, and in accordance with the provisions of Rule 741 of the Maryland Rules of Procedure, respectfully state the following:

1. Any information known to the State which tends to negate the guilt of the defendant as to the offense charged or which tends to reduce his punishment therefore is attached hereto. If no such attachment is included, no such information is known to the State at this time.

2. Upon reasonable notice to this office, the defendant or his counsel may inspect, copy and photograph the entire trial file of the State's Attorney's Office except for those matters specifically excluded from discovery by Rule 741(c) (1), (2) and (3) of the Maryland Rules of Procedure.

Michelle Leopold
ASSISTANT STATE'S ATTORNEY

I HEREBY CERTIFY that a copy of the State's Disclosure was this 30 day of April, 1980

- served on the defendant
- served on the defendant's counsel
- mailed to the defendant's counsel.

Phillip Potts

RECEIVED
CRIMINAL COURT
APR 28 AM '80
Michelle Leopold
ASSISTANT STATE'S ATTORNEY
LAWRENCE A. HURPHY
CLERK

STATE OF MARYLAND

VS.

Richard McKenzie
48004588-31

IN THE

CRIMINAL COURT

OF *MAY 15 80 2L*

BALTIMORE CITY

STATE'S REQUEST FOR DISCOVERY

Now comes William A. Swisher, State's Attorney for Baltimore City, and *M. Leopold* Assistant State's Attorney for Baltimore City, and in accordance with Rule 741(d) and (e) of the Maryland Rules of Procedure, respectfully request that the following questions be answered by the defendant within ten (10) days:

1. That the defendant produce and permit the State to inspect and copy all written reports made in connection with this case by each expert which the defendant intends to call as a witness at the hearing or trial.

2. That the defendant furnish the State with the substance of any oral report and conclusion made in connection with this case by each expert which the defendant intends to use at the hearing or trial.

3. That the defendant furnish the State with the name and address of each witness whom the defendant intends to call to show that he/she was not at *2000 BLK E. EAGER ST.* on *Jan 3*, 19*80*, at approximately _____ a.m./p.m., the place and time of this occurrence.

Michele Leopold
ASSISTANT STATE'S ATTORNEY

I HEREBY CERTIFY that a copy of the State's Request for Discovery was this *30* day of *April*, 19*80*

- served on the defendant
- served on the defendant's counsel
- mailed to the defendant's counsel.

Phillip Potts

LAWRENCE A. MURPHY
CLERK

MAY 15 9 28 AM '80

Michele Leopold
ASSISTANT STATE'S ATTORNEY

CRIMINAL COURT OF BALTIMORE
APPEARANCE NOTICE

CASE NO. 48004528-31

CHARGE Receiving stolen goods et al

DEFENDANT FULL NAME RICHARD MCKENZIE

MR. CLERK:

PLEASE ENTER MY APPEARANCE IN THE ABOVE CASE(S) FOR THE DEFENDANT.

REPRESENTATION
(Check One)

TRIAL NOTIFICATION INFORMATION (PRINT OR TYPE)

- Private Attorney (ADF)
- Public Defender (APD)
- Panel Attorney (APA)

PHILLIP L. POTTS
ATTORNEY NAME

1207 COURT SQUARE BLDG
ATTORNEY MAILING ADDRESS

BALTIMORE MD 21202
CITY/TOWN ZIP CODE

727-8666
ATTORNEY TELEPHONE NO.

CLIENT SECURITY NO.

[Signature]
ATTORNEY SIGNATURE

4-29-80
DATE

CRIMINAL COURT OF BALTIMORE
APPEARANCE NOTICE

CASE NO. 48004528-31

CHARGE Receiving stolen goods et al

DEFENDANT FULL NAME RICHARD MCKENZIE

MR. CLERK:

PLEASE ENTER MY APPEARANCE IN THE ABOVE CASE(S) FOR THE DEFENDANT.

- REPRESENTATION
(Check One)
- Private Attorney (ADF)
 - Public Defender (APD)
 - Panel Attorney (APA)

TRIAL NOTIFICATION INFORMATION (PRINT OR TYPE)

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ATTORNEY NAME

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ATTORNEY MAILING ADDRESS

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CITY/TOWN ZIP CODE ATTORNEY TELEPHONE NO.

[Signature]
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CRIMINAL COURT OF BALTIMORE
APPEARANCE NOTICE

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REPRESENTATION
(Check One)

TRIAL NOTIFICATION INFORMATION (PRINT OR TYPE)

- Private Attorney (ADF)
- Public Defender (APD)
- Panel Attorney (APA)

PHILLIP POTTS
ATTORNEY NAME

1207 COURT SQUARE BLDG
ATTORNEY MAILING ADDRESS

BALTIMORE MD 21202 727-8666
CITY/TOWN ZIP CODE ATTORNEY TELEPHONE NO.

[Signature]
ATTORNEY SIGNATURE

4-29-80
DATE

STATE OF MARYLAND

IN THE CRIMINAL COURT

VS.

OF

RICHARD McKENZIE

BALTIMORE CITY

CASE NO. 48004528-31

IN THE CRIMINAL COURT OF BALTIMORE

Election of Court Trial or Jury Trial

I know that I have a right to be tried by a jury of 12 persons or by the court without a jury. I am aware that before a finding of guilty in a jury trial all 12 jurors must find that I am guilty beyond a reasonable doubt. I am aware that before a finding of guilty in a court trial the judge must find that I am guilty beyond a reasonable doubt.

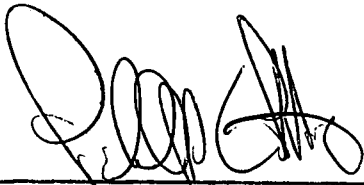
I hereby elect to be tried by:

JURY

(insert "the court" or "a jury")

I make this election knowingly and voluntarily and with full knowledge that I may not be permitted to change this election.

Witness:



Signature of Counsel

Signature of Defendant

4-29-80

Date

CRIMINAL COURT OF BALTIMORE

CASE NUMBER

DATE
06/80

111 N. CALVERT STREET, BALTIMORE MD. 21202
396-5029

48004523

ID NUMBER

olke

131243

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

IN COURTROOM

YOU ARE HEREBY NOTIFIED TO PRODUCE THE DEFENDANT
IN THE CIVIL COURTHOUSE ON TUE APRIL 29, 1980

AT

P11

329C

09:30 AM

TYPE OF PROCEEDING REARRAIGNMENT

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

BY ORDER OF COURT

MCKENZIE, DANIEL L
6621 BOWMAN HILL DR
BALTIMORE, MD 21207

Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO.

[Signature]

ASSOC. CASES

48004529 48004530 48004531

1879

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

SUMMONED WITNESS
 LEFT WITH WIFE
 LEFT WITH CHILD AGE _____
 LEFT WITH NEIGHBOR NAME _____
 LEFT UNDER DOOR
 OTHER

DATE OF SERVICE 4 122 180

TIME OF SERVICE _____

NAME OF DEPUTY & DIST. NO. _____

DATES SERVICE WAS ATTEMPTED / / / / / / / /

<input type="checkbox"/>	MOVED
<input type="checkbox"/>	MORTUUS EST
<input type="checkbox"/>	NO SUCH ADDRESS
<input type="checkbox"/>	NEED APT NUMBER
<input type="checkbox"/>	WIT UNKNOWN AT ADDRESS
<input type="checkbox"/>	VACANT HOUSE
<input type="checkbox"/>	ATTENDING SCHOOL WILL RET
<input type="checkbox"/>	DISMISSED - DATE
<input type="checkbox"/>	IN HOSPITAL NAME
<input type="checkbox"/>	LEFT EMPLOYMENT - DATE
<input type="checkbox"/>	ON MEDICAL LEAVE
<input type="checkbox"/>	OFFICER-UNKNOWN IN DEPT
<input type="checkbox"/>	RETIRED - DATE
<input type="checkbox"/>	RESIGNED DATE
<input type="checkbox"/>	VACATION - WILL RETURN
<input type="checkbox"/>	OTHER

DATE
04 1/80

CRIMINAL COURT OF BALTIMORE

CASE NUMBER

111 N. CALVERT STREET, BALTIMORE MD. 21202
396-5029

48004528
ID NUMBER

STATE OF MARYLAND VS. MCKENZIE, RICHARD J

131243

YOU ARE HEREBY COMMANDED TO APPEAR IN PERSON ROOM
IN THE CIVIL COURTHOUSE ON TUE APRIL 29, 1980

IN COURTROOM

AT 329C 09:30 AM P11

TYPE OF PROCEEDING REARRAIGNMENT

FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST. BRING THIS SUMMONS WITH YOU TO COURT.

MCKENZIE, RICHARD J
1879 N FREEDOMWAY
BALTIMORE, MD 21213

BY ORDER OF COURT

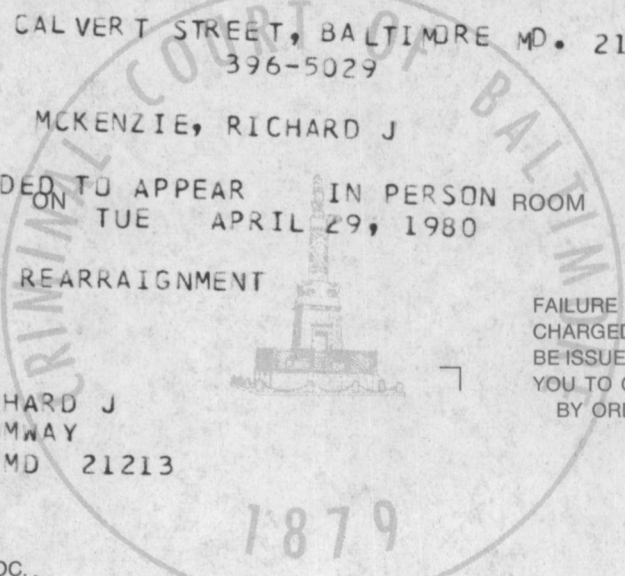
Lawrence A. Murphy

LAWRENCE A. MURPHY
CLERK, CRIMINAL COURT OF BALTIMORE

GEORGE W. FREEBERGER
SHERIFF OF BALTIMORE CITY

DEPUTY NO. 27

ASSOC. CASES ▶ 48004529 48004530 48004531



STATE OF MARYLAND

IN THE

vs.

RICHARD MCKENZIE

CRIMINAL COURT

OF

BALTIMORE CITY

4800459530(53)

Part Eleven

WAIVER OF MARYLAND RULE 746 REQUIREMENTS

The defendant named above, who is * (not) in custody, pending the trial of this case, having been advised * (by the Court and) by counsel, of the right to a prompt disposition of this case, hereby waives the time requirements from * (appearance of counsel, waiver of counsel, or appearance of the defendant before the Court pursuant to Maryland Rule 723) to trial (120 days).

DATED: 3-27-80

Richard McKenzie
Counsel for Defendant

Defendant

* Strike out inapplicable language



DISTRICT COURT OF MARYLAND FOR BALTIMORE

Located at Case No. 1-3-600969

STATE OF MARYLAND

vs. RICHARD T. MCKENZIE (Defendant)

1879 FREEDOM WAY - NORTH (Address)

Hearing or Trial Date: JAN 24, 1980 I.D. 131243 (Telephone)

CHARGE - HANDGUN FELONY, HANDGUN, POSS. HANDGUN, THEFT

CAR - 409-10-115412 BAIL BOND

TRIP - ED

KNOW ALL PERSONS BY THESE PRESENTS:

That I/we, the undersigned, jointly and severally acknowledge that I/we, our personal representatives, successors and assigns are held and firmly bound unto the State of Maryland in the penalty sum of FIVE THOUSAND Dollars (\$5000.00)

to secure payment of which the [] defendant [x] surety has, as collateral security:

[] deposited [] in cash or [] by certified check [] the full amount of \$ 5000.00 or [] an amount equal to the greater of \$25.00 or . . . % of the penalty sum;

[x] pledge the following intangible personal property

6621 BOWMAN HILL ROAD - BALTO., MD.

[] incumbered the real estate described in the Declaration of Trust filed herewith, or in a Deed of Trust dated the 17 day of JAN, 1980 from the undersigned surety to

to the use of the State of Maryland.

THE CONDITION OF THIS BOND IS that the above-named defendant personally appear, whenever and wherever required, in any court in which the charges may be pending, or in which a charging document may be filed based on the same acts or transactions, or to which the cause may be transferred, removed, or, if from the District Court, appealed.

IF, however, the defendant fails to perform the foregoing condition, this bond shall be forfeited forthwith, for payment of the above penalty sum in accordance with law.

IT IS AGREED AND UNDERSTOOD that this bond shall continue in full force and effect until discharged pursuant to section j of Rule 722 (Bail Bonds).

AND the undersigned surety covenants that the compensation chargeable in connection with the execution of this bond consisted of a [] fee [] premium [] service charge for the loan of money or other [] (describe) in the amount of \$

IN WITNESS WHEREOF, these presents have been executed under seal this 17 day

of JAN, 1980

x Richard McKenzie (SEAL) (Defendant)

x Richard McKenzie (Address of Defendant)

✓ Daniel L. McKenzie (SEAL) (Personal Surety)

✓ 6621 Bowman Hill Rd. (Address of Surety)

✓ Shirley A. McKenzie (SEAL) (Personal Surety)

✓ 6621 Bowman Hill Rd. (Address of Surety)

Surety-Insurer

Address of Surety-Insurer

By: (SEAL) (Attorney-in-Fact)

(Power of Attorney No.)

SIGNED, sealed, and acknowledged before me:

PUTED 3-1 - DANIEL L. MCKENZIE OF 6621 BOWMAN HILL ROAD (HULL BORN) LIC - 17-272-135-570-824R EMPL - LOCAL 343 HULL 57

[Signature] Commission Clerk/Deputy Judge of the District Court of Maryland for BALTIMORE County/City

WIFE - LIC # 17-272-765-067-918 CR 708 (Rev. 1/78) EMPL - SECURITY

PUTED 1-17-80-4-412 SIGNED 1-17-80-7-0017



DISTRICT COURT OF MARYLAND FOR BALTIMORE

Case No. 1-3-600969

STATE OF MARYLAND

VS. RICHARD T. MCKENZIE (Defendant)

Document No.

DECLARATION OF TRUST OF REAL ESTATE TO SECURE PERFORMANCE OF A BAIL BOND

STATE OF MARYLAND,

The undersigned DANIEL L. MCKENZIE WE of 6621 BOWMAN HILL DR. BALTIMORE COUNTY (hereinafter jointly and severally referred to as "Surety"), in order to secure the performance of the bail bond annexed hereto, being first sworn (or, if Surety is a corporation, its undersigned officer being first sworn), acknowledges and declares under oath as follows:

That Surety is, without any ownership in any other person, the owner of [] a fee simple absolute, or [] a leasehold subject to an annual ground rent of \$ 1200, in certain land and premises situate in the BALTIMORE COUNTY Maryland, and described as 6621 BOWMAN HILL DR. PK 19 PARCEL 371 (Insert lot, block, subdivision or other description) CARD # 6704A FWD0601

that Surety is competent to execute a conveyance of said land and premises and that Surety hereby holds the same in trust to the use and subject to the demand of the State of Maryland as collateral security for the performance of that bond.

That said property is assessed for \$ 36,010 x 2 = \$ 72,020 from which the following incumbrances should be deducted:

Table with 2 columns: Description of incumbrance and Amount. Includes Ground rent capitalized at 6% (\$ 2,000.00), Mortgages/Deeds of Trust totalling (\$ 40,500.00), Federal/State Tax Liens, Mechanics Liens, Judgment & Other Liens, and Other outstanding Bail Bonds.

Total Incumbrances \$ 42,500.00. and that the present net equity in the property is \$ 29,520

That, if Surety is a body corporate, this Declaration of Trust is its act and deed and that its undersigned officer is fully authorized to execute this Declaration of Trust on its behalf.

AND Surety further declares, covenants and undertakes not to sell, transfer, convey, assign, or incumber, the land and premises or any interest therein, so long as the bail bond hereby secured remains undischarged and in full force and effect, without the consent of the court in which the bail bond is filed, it being understood that upon discharge of the bail bond, the clerk of the court will execute a release in writing endorsed on the foot of this document (or by a separate Deed of Release), which may be recorded in the same manner and with like effect of a release of mortgage if this Declaration of Trust is recorded among the Land Records.

Signatures of Daniel L. McKenzie (Surety) and Shirley A. McKenzie (Surety) with addresses.

SWORN to, signed, sealed and acknowledged before me, this 17 day of JAN, 1980

Signature of Commissioner/Clerk/Judge of the District Court of Maryland for BALTIMORE County/City



DISTRICT COURT OF MARYLAND FOR BALTIMORE

Located at

Case No. 13-600969

STATE OF MARYLAND

vs.

RICHARD T. MCKENZIE
(Defendant)

AFFIDAVIT OF SURETY

STATE OF MARYLAND: CITY/COUNTY OF BALTIMORE

The undersigned Surety on the bail bond filed herewith, having been sworn individually or its undersigned agent having been sworn individually and on behalf of the Surety, deposes and says under oath that:

- 1. Surety is duly authorized to execute the bail bond filed herewith to the extent required by law, including any applicable rule of court. If Surety is an insurer, surety is authorized by the Insurance Commissioner of the State of Maryland to write bail bonds in this State.
- 2. Surety is not in default in the payment of any bail bond executed by Surety which has been forfeited in any court of the State of Maryland.
- 3. If the bail bond filed herewith is executed by a bail bondsman as agent of a principal, he is authorized to engage the principal as surety on the bail bond pursuant to a general or special power of attorney which is valid and subsisting.

And any undersigned agent who is a bail bondsman further deposes and says under oath on his own behalf that he is duly licensed to write the bail bond filed herewith to the extent required by law, including any applicable rule of court; and that if the bail bond is executed by a bail bondsman on behalf of a Surety which is an insurer, he holds a valid and subsisting license as an insurance broker in this State.

Daniel J. McKenzie
(Signature of Surety or name of Surety)

Shirley A. McKenzie
(Signature of Surety or name of Surety)

6621 Bowman Hill Rd.
(Address of Surety)

By:
(Signature of Bail Bondsman or Agent, if any)

.....
(Address of Bail Bondsman or Agent)

SWORN to and subscribed before me this 17 day of Jan, 1980

[Signature]
Commissioner/Clerk/Judge

of the District Court of Maryland for BALTIMORE County/City

STATE OF MARYLAND,

Ex Relatione

Richard Mc Kenzie

vs.

Warden of the
Baltimore City Jail

Respondent

No. 15786

Page 270

Docket 22 H.C.

IN THE

Baltimore City Court.

ELMER O. HARRIS, CLERK

ORDER OF COURT IN HABEAS CORPUS (BAIL).

Ordered by the Court, this 16 day of January
19 80, that

mentioned in this proceeding,
be, and he/she is, hereby remanded to the custody of the respondent, to
be released, upon giving bail in the sum of \$ 5,000 ^{with P.T.R. supervision as well.}, before the Clerk of the
Criminal Court of Baltimore City, for his/her appearance in said Court, when
called, and/or for his appearance before the District Court of Baltimore City when
called.

TRUE COPY. TEST:

ELMER O. HARRIS, Clerk

[Signature]
JUDGE

STATE OF MARYLAND,

Ex Relatione

Richard Mc Kenzie

vs.

Warden of the
Baltimore City Jail

Respondent . . .

No. 15786

Page 270

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TRUE COPY TEST:

ELMER O. HARRIS, Clerk

[Signature]
JUDGE

RECEIVED
CRIMINAL COURT
BALTIMORE, MD
JAN 21 11 25 AM '80
LAWRENCE M. MURPHY

State of Maryland,
on the application of

RICHARD MCKENZIE, JR.
VS.

WARDEN, BALTIMORE CITY JAIL

No.

15786

Page

270

Docket

22.14C

IN THE

Baltimore City Court.

ELMER O. HARRIS, Clerk.

PETITION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS.

To the Honorable, the Judge of the Baltimore City Court:

RICHARD MCKENZIE, JR.

prays for the issuance of a Writ of Habeas Corpus, to bring up the body of

RICHARD MCKENZIE, JR.

now illegally imprisoned, detained and restrained of his liberty, by

WARDEN, BALTIMORE CITY JAIL

Attorney for Relator .

SHELDON A. RUBENSTEIN
, the 16th

GRANTED, returnable on

day of

Jan

, 19 89, at

9:30 o'clock A M., in

Room

231

of the Court House.

(The Relator shall notify the State's Attorney.)

Allen

Judge.

(Attach Statement of Facts.)

STATEMENT OF FACTS

The Defendant is charged with handgun violatóns and is presently being held on \$25,000.00 bail.

He is thirty-one years old and has never been convicted of a crime involving any weapons nor does he have an extensive criminal record.

The Defendant is employed as a stevedore and belongs to a local union. He is a lifetime resident of Baltimore City and is single with two children.

No one was injured as a result of the above charges, nor does it involve the use of a weapon in the commission of a felony.

Defendant therefore feels that the bail is excessive and is cruel and unusual punishment because of its amount.

CASE NO. 48004528-Closed

4
8
0

Tab Products Co.
SPACEFINDER SYSTEMS

BILL #... 35402

DISPOSITION OF CASE - Cost

DISTRICT COURT COST	<u>250.00</u>
WIRE <i>Suspended</i>	<u>10.00</u>
STATE'S ATTORNEY	<u>50.00</u>
L.P.K.	<u>50.00</u>
SHERIFF	<u>10.00</u>
ATTORNEY	<u>10.00</u>
STATE INJURY FUND	<u>10.00</u>
TOTAL	<u>510.00</u>
DISTRICT COURT COST	<u>130.00</u>
COPY & SECURITY COST	
WARRANT TO BE PAID	
WARRANT TO BE RETURNED	
WARRANT TO BE FORGIVEN	
WARRANT TO BE WAIVED	
PAYABLE TO	
POSTING DATE	

Yiginski J.