Hon. [redacted]
Hon. [redacted]
Hon. [redacted]
Jessica Bonnie

Deconstructing Routine & Serious Traffic

1

Docket and Courtroom Control



2

Learning Objectives

After this discussion, you will be able to:

- Manage your courtroom more comfortably and effectively; &
- Apply tools and techniques to your courtroom practices to help improve outcomes and promote public confidence in our courts.

3

District Court Mission Statement

Reads in part that its mission is

"to provide equal and exact justice for all who are involved in litigation before the Court."

The statement continues, that it is

"the sworn obligation of the judges of the Court to ensure that every case tried herein is adjudicated expeditiously, courteously, and according to law,

4

District Court Mission Statement cont'd

and with the fullest protection for the rights of all who are involved, for the most extraordinary aspect of the judiciary in a free society is that even while exercising the vast authority entrusted to them, judges remain the servants, and not the masters, of those on whom they sit in judgment."

5

You Are The Face of the Judiciary

- "You have the ability in traffic court to influence how people perceive and view their government and the judicial system."
- Judge [redacted] District Court Hennepin County, MN (ret'd)



6

Promoting Public Confidence



7

The Nature of Judging

[Cynthia Gray, *Reaching Out or Overreaching: Judicial Ethics and Self Represented Litigants* (AJS 2005)]

- The nature of judging:
  - Is not calling balls & strikes
  - Is exercising discretion
- "exactly what a judge should do cannot be fully described by specific formula"



8

Biased or Skewed Perspective?



9

Perceptions & Expectations



10

Language as a Tool

"Language is the most powerful tool in the courtroom. The words we use have meanings beyond the obvious – they influence attitudes, behavior and perceptions."

Guidelines for Judicial Officers: Avoiding the Appearance of Bias, Judicial Council Advisory Committee on Access and Fairness, Orange County Bar Association Gender Equity Committee (August 2008).

11



12



13

Importance of Effective Communication

- provides opportunity to be heard
- promotes order, decorum & confidence in judiciary
- upholds integrity of the Court
- assures accurate decision making

14

Nonverbal Communication

What do these judges project with their nonverbal communications & which judge would you like to appear before?







15

Courtroom Control



16

Judicial Demeanor

Identifying in advance your source(s) of frustration will have a positive impact on maintaining your composure when you inevitably encounter "that" behavior/situation in the courtroom.



17

Courtroom Control:
The Betari Box



18

Opening Statements

- Best practice is to give one
- Explain possible pleas
- Explain PBJs
- Advise that MVA imposes those points
- State post trial rights
- State where the cashier's window is located

19

How to Call a Docket

- The crying baby
- The interpreter
- The Sovereign Citizen/Disruptive Litigant
- Waiver Hearing vs. Trial
- Missing/late arriving Atty/Witness/Defendant
- Fines & Court Costs (Deferred payments)
- Consistency

20

High Volume Dockets



21

The Unhappy Traffic Court Defendant



- You just found the defendant guilty of speeding even though he testified that he could not have been speeding
- The defendant is upset and begins arguing with you
- To your chagrin, you find yourself arguing back

22

What do you do when faced with the unhappy defendant or victim?

Disengage	Take a recess	Take a breath
Avoid contempt	Calmly agree to disagree	Advise of right to appeal

23

The Unhappy Victim



- The defendant enters a not guilty plea to negligent driving
- After hearing the evidence, you find the defendant not guilty, and the outraged victim/witness is outraged and yells "this is bullshit."
- To your chagrin, you find yourself arguing back

24

What do you do when faced with the unhappy defendant or victim?

Disengage	Take a recess	Take a breath
Avoid contempt	Calmly agree to disagree	Advise of right to appeal

25

Disruptive Litigants Best Practices

- Refer to litigant by their name of choice
- Afford the litigant all the rights they are due
- Pick your battles(refusal to stand/take off hat etc…)
- Keep calm & DO NOT RAISE YOUR VOICE
- Hold the case until the end of the docket
- Use contempt as last resort
- Notify security-alert them to presence of DL

26

Mental Health Disorders Potential Strategies

- Don't take anything the person says personally
- Attempt to de-escalate if person is overly-excited
- Allow person to speak; be patient
- Be firm but kind
- Know when it's time to redirect; when to disengage

27

One Final Thought

"Making a decision is a sign of *authority;* explaining a decision is a sign of *respect.*"

F. Schauer, *Giving Reasons*, 47 Stanford L.R. 633 (1995)



Or



28



29

It All Begins With a Stop:
Search & Seizure in Traffic Cases



June 5, 2025

30

Learning Objective

As a result of this session, you will be able to:

Identify, analyze, and rule on Fourth Amendment issues that arise during the trial of impaired driving cases.

31

Judges As Guardians

"For better or worse, the warrant requirement and good-faith rule make the judge . . . the central guardian of Fourth Amendment rights."

United States v. Morton, 46 F.4th 331, 340 (5th Cir. 2022).

32

Warrantless Searches



"[S]earches conducted outside the judicial process, without prior approval by a judge or magistrate, are *per se* unreasonable under the Fourth Amendment – subject only to a few specifically established and well-delineated exceptions."

Arizona v. Gant, 556 U.S. 332, 338 (2009) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)).

33

Allowable Warrantless Searches

- Search incident to arrest
- Exigent circumstances
- Automobile search
- Consent
- Inventory search



34

It All Begins With A Stop

Reasonable Suspicion to Stop

Stop is permissible if based on reasonable articulable suspicion

- Pretext stops permissible
- But not stops based on mere hunch or speculation

Whren v. United States, 517 U.S. 806 (1996).



35

Reasonable Articulable Suspicion (RAS)

- A standard "not readily, or even usefully, reduced to a neat set of legal rules."

Washington v. State, 482 Md. 395, 421 (2022).

- Its meaning "exists somewhere between unparticularized suspicions and probable cause."

Id. See also Sizer v. State, 456 Md. 350, 364 (2017).



36

Making a RAS Determination

***United States v. Arvizu*, 534 U.S. 266 (2002).**

- Courts must look to the "totality of the circumstances."
- To determine "whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing."

37

Permissible Traffic Stop?

- Officer observes vehicle on highway
- Runs computer check on license plate
  - Plate issued to the observed vehicle
  - Owner has a revoked license
- Officer, assuming that registered owner is the driver, initiated traffic stop
  - No traffic infractions
  - No attempt to identify the driver

38

Kansas v. Glover, 589 U.S. 376 (2020).

(J. Thomas) (8-1)

- Courts must permit officers to make common sense judgments & inferences about human behavior.
- HELD: When the officer ***lacks*** information negating an inference that the owner is the driver, the stop is reasonable.



39

Duration of Traffic Stop

- Once stopped, officer may conduct an investigation "reasonably related" to scope of stop, including:
  - license, registration & insurance checks
  - check for outstanding warrants
- Once the purpose of a traffic stop has been or should have been addressed, the stop cannot be extended even briefly for unrelated investigative activities.

v. United States, 575 U.S. 348 (2015).

40

Duration of Stop

v. United States, 575 U.S. 348 (2015).

BUT, the stop may be extended for unrelated investigation with reasonable articulable suspicion.





41

Standardized Field Sobriety Tests: A Search?



42

Search Incident to Arrest for DUI

- *Arizona v. Gant*, 556 U.S. 332 (2009).
- *v. State*, 261 Md.App. 83 (2024).
  - valid DUI arrest (odor of alcohol, admission to consuming a large amount of alcohol, flight)
  - reasonable to believe (aka RAS) that evidence of drinking to be found inside vehicle (distancing himself from vehicle, odor of alcohol, admission to consuming a half pint of cognac.)



43

Search of Automobile

Carroll v. United States, 267 U.S. 132 (1925).

- assumes a valid basis for the stop
- probable cause to believe automobile contains contraband
- based on inherent mobility of automobiles

44

Probable Cause

- More than RAS, but less than preponderance of evidence
- Reasonable ground for belief
- Simply a fair probability
- Judicial determination: Whether the facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause. *Maryland v. Pringle*, 540 U.S. 366 (2003).



45

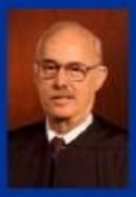
Probable Cause

Probable cause exists where the facts and circumstances within the arresting officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed.

Jackson v. State, 81 Md.App. 687, 692 (1990).

"Just as beauty is artistically in the eye of the beholder, probable cause is investigatively in the eye of the trained beholder. The eye of the beholder is a critical facet of probable cause."

Freeman v. State, 249 Md.App. 269, 280 (2021).



46

Query: Is a search permissible based on odor of marijuana?



47

Simple Possession of Cannabis (after [redacted])

Lawful Possession	up to 1.5 oz.
Civil Offense	1.5 – 2.5 oz.
Criminal Possession	> 2.5 oz.

48

§1-211, Criminal Procedure Art. (2023)

- Officer may not initiate a traffic stop or a search based solely on the odor of burnt or unburnt cannabis.
- Officer, investigating a person solely for DUI, may not search an area of vehicle that is not:
  - readily accessible to the driver or operator, or
  - reasonably likely to contain evidence relevant to the driver's condition.

49



Criminal Procedure §1-211(c):

"Evidence discovered or obtained in violation of this section, including evidence discovered or obtained with consent, is not admissible at trial, a hearing, or any other proceeding."

50



Breath & Blood Testing:

The 4th Amendment & Implied Consent

51

Obtaining Breath & Blood

1. With a search warrant
2. Incident to arrest (only for breath test)
3. Under exigent circumstances
4. With consent

52

Breath & Blood Testing and the 4th Amendment

- *Missouri v. McNeely*, 569 U.S. 141 (2013).
- *Birchfield v. North Dakota*, 579 U.S. 438 (2016).
- *Mitchell v. Wisconsin*, 588 U.S. 840 (2019).





53

Search Incident to Arrest

***Birchfield v. North Dakota*, 579 U.S. 438 (2016).**

- Court employed balancing test
  - 4th Amendment permits warrantless **breath** tests incident to arrest
  - **blood** tests are significantly more intrusive, therefore 4th amendment does not permit a warrantless **blood** test incident to arrest

54

Exigent Circumstances

***Missouri v. McNeely*, 569 U.S. 141 (2013).**

At **2:08 a.m.**

- Observed speeding & crossing the centerline
- Odor of alcohol, bloodshot eyes, slurred speech
- "couple of beers"
- Unsteady on his feet & failed SFSTs
- Refused PBT, breath & blood test



At **2:35 a.m.**

- blood drawn over objection
- BAC = 0.154

55

Missouri v. McNeely

Issue: "[W]hether the natural dissipation of alcohol in the bloodstream establishes a *per se* exigency that suffices on its own to justify an exception to the warrant requirement for nonconsensual blood testing in drunk-driving investigations."



56

Missouri v. McNeely

- Non-consensual blood draw = "search"
- Warrant or exception required
- **HELD**: Dissipation of alcohol is not a *per se* exigency



57

Exigent Circumstances
Possible Examples

- Officer delayed by need to investigate crash
- Officer had to go to hospital to begin DUI investigation
- Suspect was being treated for injuries
- Alcohol/drug dissipation
- Time necessary to obtain warrant
- Unavailability of magistrate/judge

58

***Mitchell v. Wisconsin*, 588 U.S. 840 (2019).**



59

Mitchell v. Wisconsin
Plurality Opinion

- **HELD**: Exigent circumstances exist when natural dissipation is combined with other pressing police duties.
- When person's stupor requires trip to hospital, State may "almost always" order a warrantless blood test.

60

Mitchell v. Wisconsin
Rationale

- Testing must be prompt because it is a biological certainty that alcohol dissipates from the bloodstream, literally disappearing by the minute.
- BACs serve important purpose to enforce DUI laws that save lives.

61

Mitchell v. Wisconsin

"There is clearly a 'compelling need' for a blood test of drunk-driving suspects whose condition deprives officials of a reasonable opportunity to conduct a breath test."



62

Implied Consent

Absent exigent circumstances, under Maryland's Implied Consent law, police may obtain blood test without a search warrant in impaired driving cases:

a) always?
b) only in cases involving death or life-threatening injuries?
c) only with express consent?
d) never?

63

Maryland's Implied Consent Law
§16-205.1, Transportation Art.

- any driver "is deemed to have consented" to a test if detained for suspicion of DUI
  - but subject to informed consent
- if involved in accident resulting in fatality or life-threatening injury, driver shall be required to submit to test
- if unconscious, officer shall direct withdrawal of blood

64

Query

Is statutory implied consent sufficient as "consent" under 4th amendment jurisprudence?



65

Implied Consent: The Issues

- Is "implied consent" sufficient consent under the 4th amendment?
- May a driver withdraw his/her implied consent?
- What if driver is unconscious and unable to either expressly consent, or withdraw implied consent?

66

Colbert v. State
229 Md.App. 79 (2016).

- Issue: whether §16-205.1 is constitutional in case involving accident resulting in fatality or life-threatening condition
- Held: law is constitutional
  - with respect to breath tests
  - reasonable per se exception to warrant requirement

67

Question

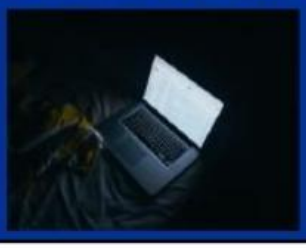
Impaired driver strikes and kills a bicyclist while operating his vehicle. When taken to the hospital for a blood test, driver says "you're not taking my blood." Police may lawfully obtain a blood sample for testing:

a) because implied consent is sufficient to draw blood?
b) only with a search warrant or with exigent circumstances?
c) without a warrant incident to the driver's arrest for DUI?
d) only if they ask nicely?

68

Withdrawal of Consent

***State v. McDonnell*, 484 Md. 56 (2023).**



69

State v. McDonnell



"One who gives consent for the search . . . may subsequently narrow the scope of the consent given or withdraw consent entirely."

70

Tarr v. People

2024 CO 37, 549 P.3d 966 (2024)

- *Birchfield v. North Dakota* (2016)
  - referred approvingly to the general concept of implied consent laws that impose civil penalties and evidentiary consequences
- *Mitchell v. Wisconsin* (2019)
  - "our decisions have not rested on the idea that these laws do what their popular name might seem to suggest – that is, create actual consent to all the searches they authorize."
- HELD: driver can revoke statutory consent to breath or blood test

71

What About Implied Consent?

The Unconscious Driver



72

Food for Thought

If police have probable cause to believe that the driver was operating a motor vehicle while under the influence of alcohol or drugs, but is unconscious, they may obtain a blood sample for testing:

a) because implied consent is sufficient consent to draw blood?
b) only with a search warrant or if there are exigent circumstances?
c) without a warrant incident to the driver's arrest for DUI?
d) never?

73

One Final Thought:
Mitchell v. Wisconsin Dissent

Implied Consent statute cannot create the actual and informed consent that 4th Amendment requires



74

Questions or Comments?



75



BREAK

76


SENTENCING SCENARIO
IT'S
TO BE THE
JUDGE

77


LUNCH

78


Assistant Director
Central Operations
Maryland Motor Vehicle Administration
Everything Judges Want or Should Know About Maryland's Ignition Interlock Program but Haven't Had the Time to Ask

79


BREAK

80

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#2448749

▪Start presenting to display the joining instructions on this slide.

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▪Which one is not a type of street sign?

▪The Slido app must be installed on every computer you're presenting from

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Things You Thought You Knew:
Test Your Knowledge

June 5, 2025

83

Reasonable Minds May Disagree



84

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Do you access traffic records on the bench?

1. never
2. always
3. in routine traffic only
4. whenever I feel like it



85

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▪Please download and install the Slido app on all computers you use

▪Do you access traffic records on the bench?

▪ⓘ Start presenting to display the poll results on this slide.

86

Slido- Provisional Licenses

Defendant gets a PBJ for speeding while on provisional license; subsequently receives a DUI while still on his provisional license. He seeks a PBJ for his first DUI. Can the Court a PBJ?

1. Yes
2. No
3. It depends

87

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▪Please download and install the Slido app on all computers you use

▪Defendant gets a PBJ for speeding while on provisional license; subsequently receives a DUI while still on his provisional license. He seeks a PBJ for his first DUI. Can the Court a PBJ?

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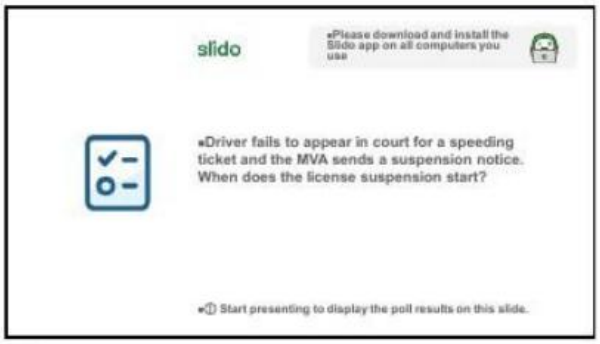
88

Slido – License Suspension

Driver fails to appear in court for a speeding ticket and the MVA sends a suspension notice. When does the license suspension start?

1. 21 days after notice is dated
2. upon surrender of the driver's license
3. whenever MVA feels like it

89



90

Slido – License Suspension

When does the FTA/FTC license suspension end?

1. upon payment of the fine
2. upon request for a trial date
3. upon re-application for issuance of license
4. 1, 2, and 3
5. 1, 2 only

91



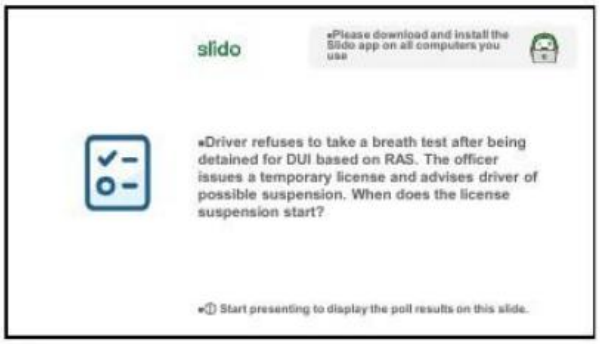
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Slido – License Suspension

Driver refuses to take a breath test after being detained for DUI based on RAS. The officer issues a temporary license and advises driver of possible suspension. When does the license suspension start?

1. only after a hearing at OAH
2. on the 46th day after license is taken
3. upon surrender of one's license

93



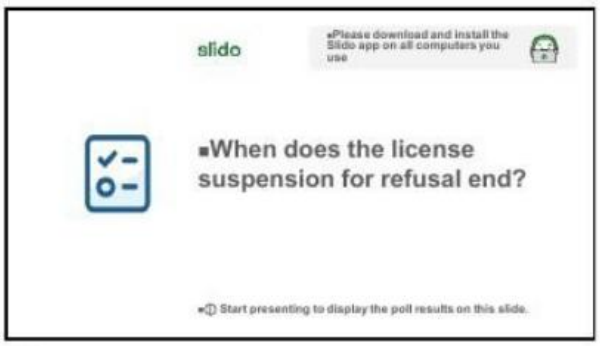
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Slido – License Suspension

When does the license suspension for refusal end?

1. automatically after suspension period ends
2. after end of suspension period and upon re-application for license, and payment of fee

95



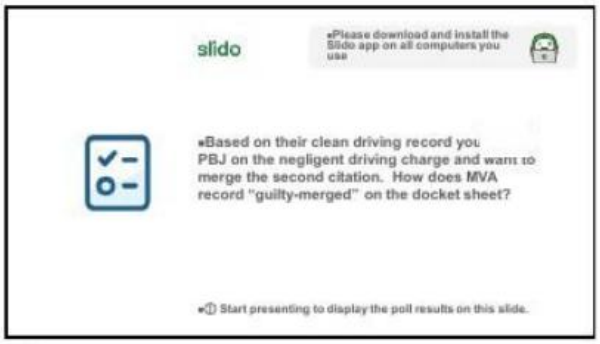
96

Slido – "Guilty-Merged"

Driver pleads guilty to failing to control speed to avoid a collision, and negligent driving. Based on their clean driving record you [redacted] PBJ on the negligent driving charge and want to merge the second citation. How does MVA record "guilty-merged" when recorded on the docket sheet?

1. as a PBJ
2. as a conviction without points
3. as a conviction with points
4. since it is merged, MVA does not record the disposition for the merged charge

97



98

Discussion Question

1st DUI arrest – May 1, 2013
1st DUI PBJ – July 16, 2013

2nd DUI arrest – June 15, 2023
2nd DUI Plea – Ju[redacted]15, 2023
2nd DUI Sentencing – Aug. 1, 2023

Is the defendant legally entitled to a PBJ on his second DUI?

99

Slido – Speed Cases

Must a citation for failing to drive "at reasonable and prudent speed" [21-801] include the driver's alleged speed and the applicable speed limit?

1. yes, in all cases
2. only the alleged speed
3. only the applicable speed limit
4. no

100

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•Please download and install the Slido app on all computers you use

•Must a citation for failing to drive "at reasonable and prudent speed" [21-801] include the driver's alleged speed and the applicable speed limit?

•ⓘ Start presenting to display the poll results on this slide.

101

Speed Greater Than Reasonable

Proof of exceeding the posted speed limit is sufficient to convict a defendant of driving in excess of a reasonable and prudent speed (Transportation Art. 21- 801(a).

1. True
2. False

102



103

Guilty or Not Guilty?

A driver charged with unsafe lane change (TA 21-309) after colliding with a vehicle in the adjacent lane of travel. Defendant testifies that he/she thought it was safe to change lanes.

1. Guilty?
2. Not guilty?



104

Points

A person convicted of participating in a race or speed contest (8 pts.) and reckless driving (6 pts.) arising from the same incident will be assessed:

1. 6 points
2. 8 points
3. 14 points
4. 0 points, since you give everyone PBJ

105

Accumulation of Points

Defendant pleads guilty to a reckless driving citation he failed to appear for 7 years earlier. You find them guilty. He currently has 5 points on his record from earlier this year. Is he/she subject to a license suspension for an accumulation of points?

1. yes
2. no

106

True or False



The charge of failure to control speed to avoid a collision (TA 21-801(b)) applies where a defendant is speeding, loses control of his vehicle and crashes into a tree.

1. True
2. False

107

Discovery

Traffic violations generally are criminal misdemeanors. Is discovery available in traffic court?

1. Yes
2. No

108

Slido - Videos

At trial for failing to stop at a stop sign, defendant pleads not guilty and during trial says "I want to see the dashcam or bodycam video." What do you do?

1. sigh
2. direct the officer to produce and show the video
3. take a break to allow the officer and defendant to view the video
4. postpone the case

109

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•Please download and install the Slido app on all computers you use

•At trial for failing to stop at a stop sign, defendant pleads not guilty and during trial says "I want to see the dashcam or bodycam video." What do you do?

•ⓘ Start presenting to display the poll results on this slide.

110

Discussion Question

Defendant pleads guilty to speeding 78 mph in a 45-mph zone. Although he has one recent moving violation, you decide to give them a break by reducing the speed to 54 mph in a 45-mph making it a 1-point violation instead of 5 points. Any problem?

What if driver holds a commercial driver's license?

111

Masking






112

Federal Law Prohibits "Masking"
49 CFR 384.226

The State must not:

- mask,
- defer imposition of judgment, or
- allow an individual to enter into a diversion program

that would prevent a CLP/CDL holder's conviction, in any type of motor vehicle, from appearing on CDL driver's record.



113

Definition of "Conviction"
49 CFR 383.5

- an unvacated adjudication of guilt
- the payment of a fine or court cost
- a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal

114

Definition of "Conviction" (cont'd)
49 CFR 383.5

- an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court
- a plea of guilty or nolo contendere accepted by the court

115

Masking: Why it Matters

- Oath to uphold/follow the law
- Correlation between commercial violators and crash risk
- Maryland may lose Federal Highway funds
  - up to 4% after 1st year
  - up to 8% after 2nd & subsequent years

116

Hypothetical

- 48-year-old Defendant, while driving home from a wedding in his family vehicle, is stopped for DUI
- BAC = 0.05 & impaired by marijuana
- No prior criminal or traffic record
- Holds a CDL

117

Question

What About PBJs for Commercial Drivers?





118

§16-803(d) Transportation Article
Maryland Commercial Driver's License Act

"Conviction"

- essentially same definition as 49 CFR 383.5

+

- probation before judgment

119

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Prosecutor is willing to postpone case to allow Defendant to attend drug education program and do community service after which State will dismiss the case. Do you?

1. Postpone the case & move on
2. Deny postponement and require State to proceed
3. Inquire as to whether State would have been able to prove its case
4. Recuse and set before another judge
5. Something else

120

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•Prosecutor is willing to postpone case to allow Defendant to attend drug education program and do community service after which State will dismiss the case. Do you...

•ⓘ Start presenting to display the poll results on this slide.

121

Perhaps the Correct Answer is: "Something Else" and You Need More Information



122

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Alternatively, the prosecutor & defense attorney jointly ask you to accept a plea to negligent driving. Do you:

1. Accept the plea & move on?
2. Decline to accept the plea because this is an attempt at masking?
3. Continue the case to a later date?
4. Something else?

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•Please download and install the Slido app on all computers you use

•Alternatively, the prosecutor & defense attorney jointly ask you to accept a plea to negligent driving. Do you...

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Variations on a Theme

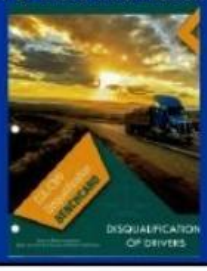
Attorney negotiates with State Trooper on a series of nonjailable tickets, and Trooper announces that he is proceeding on 2 of the 3 tickets and is presenting no evidence on the 3rd.

Is there a problem?

125

Masking

For More Information



126

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The higher the level of alcohol in the body, the greater the level of impairment.

1. True
2. False



127

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▪Please download and install the Slido app on all computers you use

▪The higher the level of alcohol in the body, the greater the level of impairment.

▪ Start presenting to display the poll results on this slide.

128

Slido



The higher the level of **THC** in the body, the greater the level of impairment.

1. True
2. False

129

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▪Please download and install the Slido app on all computers you use

▪The higher the level of THC in the body, the greater the level of impairment.

▪ⓘ Start presenting to display the poll results on this slide.

130

Final Question

Defendant is a commercial driver who is charged with a weight violation where the preset fine is $1400. Defendant says it's coming out of his pocket, and you want to reduce the fine. Are you legally permitted to do so?

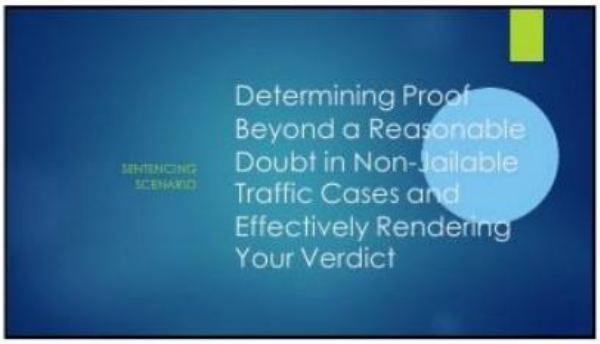
1. Yes
2. No

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Questions - Comments?



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SENTENCING SCENARIO
Determining Proof Beyond a Reasonable Doubt in Non-Jailable Traffic Cases and Effectively Rendering Your Verdict

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QUESTIONS & WRAP-UP

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