IN THE APPELLATE COURT OF MARYLAND
_____

ACM-REG-0413-2024
September Term, 2024
_____

CRAIG DONNELL JOHNSON,

Appellant,

v.

STATE OF MARYLAND,

Appellee.
_____

On Appeal from the Circuit Court for Montgomery County
(The Honorable Jeannie Eun Kyung Cho, Presiding with a Jury)
_____

BRIEF OF AMICI CURIAE

THE PUBLIC JUSTICE CENTER,
MARYLAND CRIMINAL DEFENSE ATTORNEYS' ASSOCIATION, AND
THE BALTIMORE ACTION LEGAL TEAM

IN SUPPORT OF APPELLANT, BY WRITTEN CONSENT

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STATEMENT OF INTEREST

The Public Justice Center ("PJC") is a non-profit civil rights and anti-poverty legal organization established in 1985. Adopting a race equity lens, PJC uses impact litigation, public education, and legislative advocacy to reform the law for its clients. Its Appellate Advocacy Project expands and improves representation of disadvantaged persons and civil rights issues before the Maryland and federal appellate courts. PJC has a demonstrated commitment to upholding the rights of individuals facing detention or incarceration, and to opposing institutional racism and pursuing racial equity in the judicial system. *See, e.g., In re MP*, SCM-REG-0003-2023 (amicus); *Belton v. State*, COA-REG-00082-2022 (amicus); *Washington v. State*, COA-REG-0015-2022 (amicus); *Smith v. State*, COA-REG-0061-2021 (amicus). The Statements of Interest of co-Amici are contained in the attached Appendix.

ARGUMENT

Hoping to put a name to a face, law enforcement agencies across the country frequently turn to facial recognition technology ("FRT"). Despite its growing prevalence, the use of this technology is rarely disclosed to individuals facing prosecution, even though studies have highlighted its susceptibility to error, inconsistencies across different programs, and racial biases. The risk of misidentification—especially among people of color—raises serious concerns. Law enforcement's reluctance to disclose the use of FRT prevents meaningful scrutiny, depriving people of their right to a defense and a fair trial. Thus, this Court should hold that the State's failure to timely or sufficiently disclose its use of FRT constitutes a *Brady* violation and breaches the State's discovery obligations.

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In addition, when considering whether the offered continuance was an adequate remedy for the *Brady* and/or discovery violation, the Court should consider the deleterious impact of pretrial detention on the fairness of the proceeding as well as its harmful effects on individuals, their families, and communities.

Accordingly, this Court should vacate Mr. Johnson's conviction.

I.   The Use of FRT and the Details of the Search Conducted Should Be Disclosed to Ensure a Fair Trial

Under *Brady*, the prosecution must disclose evidence favorable to the defense and material to the case's outcome. *See* Appellant Br. 14–15. FRT is used in hundreds of thousands of cases, yet its application is rarely disclosed to the defense. U.S. Comm'n on C.R., *The Civil Rights Implications of the Federal Use of Facial Recognition Technology* 172 (Sept. 2024), https://www.usccr.gov/files/2024-09/civil-rights-implications-of-frt_0.pdf [hereinafter "USCCR"]. Because FRT is "novel and untested," the Court should compel disclosure of the "identity, design, specifications, and operation of the program or programs used for analysis." *State v. Arteaga*, 296 A.3d 542, 555, 557 (N.J. Super. Ct. App. Div. 2023) (holding that such disclosure was required under *Brady*). FRT's fallibility and biases make transparency critical to ensuring a person's right to a fair trial.

A.   Every FRT Search Involves a Distinct Risk of Error

FRT is an artificial-intelligence-powered "identification method based on the presumption that faces are unique biometric indicators." Nat'l Ass'n of Crim. Def. Laws., *Defense Use of Facial Recognition Technology: An Advisory* 1 (2024), https://www.nacdl.org/getattachment/94f8d9f8-eba4-44f7-8763-47a2f3038e8a/defense-

usefacialrecognitionadvisory.pdf. It works by converting a facial image into a numerical

template, which is compared against a database of face templates. Clare Garvie, *A*

Forensic Without the Science: Facial Recognition in U.S. Criminal Investigations, Geo.

L. Ctr. on Priv. & Tech. 9–12 (2022), https://mcusercontent.com/672aa4fbde73b1a49df5

cf61f/files/2c2dd6de-d325-335d-5d4e-84066159df71/Forensic_Without_the_Science_

Face_Recognition_in_U.S._Criminal_Investigations.pdf [hereinafter *Forensic Without*

the Science]. Rather than simply providing a "match" or "no match" answer, it generates

a list of probabilistic results. *Id.* In practice, law enforcement officers submit a "probe

photo"—such as a still from surveillance footage—to compare against a database of face

images, typically derived from jail bookings or driver's license records. *Id.* Police

personnel may edit the probe photo before running the comparison. *Id.* The system

converts the probe image into a template, compares it to templates in the database, and

returns a list of potential matches, each with a confidence score. *Id.* A police employee

then reviews the list to determine whether any of the candidates appear to be likely

matches. *Id.*

Comprehensive testing is necessary to determine the probability of error in any

system. Dozens of FRT programs exist, and they vary significantly in terms of accuracy

and capabilities. Patrick Grother et al., *Face Recognition Technology Evaluation (FRTE)*

Part 2: Identification, Nat'l Inst. Of Standards & Tech. 9–10 (2024), https://pages.nist.

gov/frvt/reports/1N/frvt_1N_report.pdf. The Department of Commerce's National

Institute of Standards and Technology ("NIST") cautioned that due to this variability, the

"buyer-beware maxim" applies, explaining that "[FRT] is far from being commoditized."

Id. at 45. NIST's 2024 study found that when searching against a mugshot database, the least accurate software returned correct matches only 50% of the time and was over 400 times more likely to make a mistake than the most accurate program.[1] *Id.*

The quality of the probe image also directly impacts the accuracy of FRT. While many algorithms perform relatively well when the probe image is a front-facing mugshot, error rates increase dramatically when the face is tilted, cropped, or obscured. *Id.* at 9. Lighting, pixel density, and facial expressions also affect the outcome. *Id.* at 35; Clare Garvie, *Garbage In, Garbage Out: Face Recognition on Flawed Data*, Geo. L. Ctr. on Priv. & Tech. (May 16, 2019), https://www.flawedfacedata.com/#results [hereinafter *Garbage In*]. The probe photo from the store surveillance camera used in Mr. Johnson's case likely suffered such deficiencies.

At the time of the investigation of this case, most jurisdictions did not have rules governing what images police may submit as probe photos. Law enforcement agencies have used altered photos, artist sketches, and even celebrity look-alikes in attempts to find matches. *Garbage In*, *supra*. In one case, after the system failed to return any useful matches to a blurry, obscured surveillance image, analysts ran a photo of an actor they believed the suspect resembled. *Id.* Editing techniques often go well beyond minor lighting adjustments. Police may use Photoshop or built-in features in FRT systems to modify features not visible in the original photo, such as by mirroring parts of the face,

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[1] NIST testing is voluntary so not all FRT programs in use are included in these reports.

adding pixels, or replacing sections with images sourced from Google searches (e.g.,

"open eyes" or "closed mouth."). *Id.*

The number of results returned and their similarity to the probe can vary

significantly depending on the software and the selected settings. Different systems

utilize distinct databases of photos against which the probe photo is compared, which can

lead to drastically different outcomes when processing the same image. Douglas

MacMillan et al., *Police Seldom Disclose Use of Facial Recognition Despite False*

Arrests, Wash. Post (Oct. 6, 2024), https://www.washingtonpost.com/

business/2024/10/06/police-facial-recognition-secret-false-arrest/. For example,

Clearview AI, a system widely used by law enforcement, compares probe images against

billions of images scraped from social media and public websites. *Id.* In one case, the

system returned images of Michael Jordan and a cartoon of a Black man as potential

matches. *Id.* Other systems rely on smaller databases comprised of government issued

photos, which creates a different problem—if the database does not contain the person

sought, the system will return only incorrect matches. Furthermore, FRT software allows

law enforcement to adjust the confidence score threshold for the image returns; setting a

higher threshold produces fewer matches, while lowering the score generates more leads.

The number of results returned, the confidence score used (and whether it was adjusted),

and how many different searches were conducted could all be highly relevant exculpatory

information in a case.

B. FRT Disproportionately Exposes People of Color to Misidentification and Exacerbates Racial Inequities in Policing

FRT disproportionately exposes people of color to wrongful incarceration. Six of the seven publicly reported cases of wrongful arrests due to FRT misidentification involved Black individuals. Alyxaundria Sanford, *Artificial Intelligence Is Putting Innocent People at Risk of Being Incarcerated*, Innocence Project (Feb. 14, 2024), https://innocenceproject.org/artificial-intelligence-is-putting-innocent-people-at-risk-of-being-incarcerated. This includes the case of Alonzo Sawyer here in Maryland. Appellant Br. 17.

FRT is significantly less reliable when used on people of color. Even with the highest-performing algorithms, research has shown that false positives—the likelihood that the system matches a face with someone else's identity—are more likely for certain demographic groups, specifically Black people (particularly Black women), people of East Asian descent, women, and older adults. Patrick Grother et al., *Face Recognition Vendor Test (FRVT) Part 3: Demographic Effects*, Nat'l Inst. Of Standards & Tech. 2 (2019), https://nvlpubs.nist.gov/nistpubs/ir/2019/NIST.IR.8280.pdf. Black and Asian individuals are up to *one hundred times* more likely to be misidentified by FRT than white men. *Id.* In one test, an algorithm used by law enforcement falsely matched photographs of twenty-eight members of Congress with arrestee mugshots. While people of color made up only 20% of Congress, they represented nearly 40% of the false matches. Jacob Snow, *Amazon's Face Recognition Falsely Matched 28 Members of*

Congress With Mugshots, ACLU (July 26, 2018), https://www.aclu.org/news/privacy-technology/amazons-face-recognition-falsely-matched-28.

These discrepancies partly stem from biased training data. At the core of artificial intelligence is the idea that, through exposure to data, computers can learn patterns and make predictions. USCCR, at 12. Most datasets used to develop FRT algorithms have historically underrepresented certain racial and ethnic groups, particularly those with darker skin tones. Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, 81 Proc. of Mach. Learning Rsch. 1, 3 (2018). The impact cannot be overstated as FRT systems are only as accurate as the data used to train them. Two prominent datasets used to train FRT algorithms were overwhelmingly composed of lighter-skinned faces, resulting in higher error rates for people with darker skin. *Id.* (explaining that the "gold standard" dataset was approximately 83.5% white). In real-world application, these biases have profound consequences.

The disparate impact for people of color is further compounded by several factors. Poor image quality, which disproportionately affects dark-skinned individuals who are often underexposed in photographs, makes accurate identification even more difficult. Buolamwini, *supra*, at 12. Additionally, databases commonly used by law enforcement, such as mugshots, are themselves biased because they overrepresent people of color due to systemic racial biases in the judicial system. Kade Crockford, *How Is Face Recognition Surveillance Technology Racist?*, ACLU (June 16, 2020), https://www.aclu.org/news/privacy-technology/how-is-face-recognition-surveillance-

technology-racist. The concentration of police resources in many Black neighborhoods further leads to disproportionate contact between Black residents and officers. *Id.* The combination of these factors amplifies the risk of wrongful identification and false arrests based on false positives, further entrenching racial disparities in the criminal justice system.

C.   Human Review Can Compound FRT's Errors and Flaws

There is a key assumption that human review will catch the errors or biases of FRT, but this is not the case. *Forensic Without the Science*, at 22. Humans, like algorithms, are prone to face identification errors. Studies show that humans struggle to identify and distinguish between strangers, with error rates ranging from 10% to 60%. *Id*. This problem is magnified when variables like image quality, pose, age, or similar-looking individuals are introduced, and is even more pronounced when identifying individuals of a different race. *Id.* at 22, 36.

In one study, participants identifying subjects from low-quality surveillance footage selected the correct target at a rate only marginally better than chance. *Id.* at 23–24. Professionals with experience in face identification—such as police and passport officers—perform just as poorly as non-experts. *Id.* (citing a 1999 study which found no significant difference between the abilities of twenty police officers, with an average 13.5 years of experience in forensic face identifications, and college students). Even facial recognition specialists with extensive training misidentify people about 7% of the time. *Id.* at 25. While some police departments have specialized facial recognition units, others allow employees with minimal training to run searches. *Id.* at 25–26.

Humans not only struggle with accurately identifying faces, but they also fall prey to automation bias—the tendency to "favor suggestions from automated decision-making systems and to ignore or fail to seek out contradictory information." USCCR, at 3. People often over-rely on computer outputs, especially if the algorithm is perceived—even wrongly—as infallible. This leads officers to accept the algorithm's conclusions rather than critically assess the biometric similarities or differences between faces. *Id*. In other words, human reviewers often trust the algorithm without properly questioning its decisions, which can compound the system's inherent flaws.

D. Because Police Rarely Disclose use of FRT, Courts Have Seldom Scrutinized Whether FRT Meets Constitutional Standards

Even though facial recognition searches often determine the course of criminal investigations and errors made by FRT have resulted in numerous wrongful arrests, police rarely disclose their use of the technology. For instance, after being incorrectly identified through FRT, Quran Reid was wrongfully detained for crimes committed in Louisiana—a state he had never visited. MacMillan, *supra*. The detective had sworn in an affidavit that he was "advised by a credible source" to investigate Reid, but the investigation was based solely on a purported FRT match. *Id.* Reid did not learn that FRT had been used until days into his incarceration. *Id.*

The lack of disclosure is particularly disturbing given that FRT is likely used in hundreds of thousands of cases. But the problem goes beyond mere non-disclosure. Police departments frequently *conceal* their use of FRT by claiming that suspects were identified "through investigative means" or by a witness or officer identification. *Id.* For

example, over four years, the Miami Police Department conducted 2,500 FRT searches, resulting in 186 arrests and over fifty convictions, but only one in sixteen individuals was informed that FRT had been used in their case. *Id.* Some police departments go as far as to instruct officers not to disclose the use of FRT in written reports. *Id.*

Because most cases are resolved through plea bargains, the full impact of FRT remains unknown. Claire Garvie, *Testimony Before the U.S. Commission on Civil Rights on the Civil Rights Implications of Facial Recognition Technology* 5 (Mar. 8, 2024), https://www.nacdl.org/getattachment/0725bfd1-6567-4d81-b980-f1bf150f349c/garvie_testimony_civil-rights-commission_face-recognition.pdf [hereinafter *Testimony*]. While seven wrongful arrests based on FRT misidentifications are publicly known, many more likely exist, particularly "given the rates at which cases plead out and the known risk that people—particularly indigent defendants—plead guilty to crimes they didn't commit to avoid a 'trial penalty,' the risk of facing exponentially higher sentences should they invoke their right to trial and lose." *Id.* Nijeer Parks, for example, who was arrested based on an incorrect image match, considered pleading guilty because he had prior convictions that could have led to a severe sentence. Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, N.Y. Times (Jan. 6, 2021), https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html.

Furthermore, FRT's admissibility has not been established under the *Daubert* standard, which requires testing, peer review, error rate analysis, usage standards, and scientific acceptance. *See Daubert v. Merrell Dow Pharms. Inc.*, 509 U.S. 579 (1993).

Given that FRT has never undergone reliability testing in operational conditions, a court would be hard-pressed to conclude it meets these requirements. In *Frye* jurisdictions, which assess whether a technology is "sufficiently established to have gained general acceptance in the particular field in which it belongs," *Frye v. United States*, 293 F. 1013, 1014 (D.C. Cir. 1923), courts have concluded that FRT has not been accepted as reliable within the relevant scientific community. *See Minnesota v. Archambault*, No. 62-CR-20-5866, Minn. 2d Jud. Dist. (Sept. 13, 2024); *People v. Reyes*, 133 N.Y.S.3d 433 (N.Y. Sup. Ct. 2020).

Because the right to a fair proceeding is of fundamental constitutional importance, this issue should not be left to the shifting winds of politics. Some states—including Maryland recently, Md. Code Ann., Crim. Proc. § 2-504 (2024)—have enacted transparency laws requiring disclosure of FRT usage, and twenty-one cities and counties, along with Vermont, have prohibited the technology due to concerns about its accuracy and racial bias. MacMillan, *supra*. In at least two cities that have barred the technology, however, officers secretly enlisted neighboring law enforcement agencies to run FRT searches, *id.*, and Virginia and New Orleans—which had banned local law enforcement from using FRT—have reversed course, USCCR, at 32.

The Court's attention to FRT's impact is crucial to enshrine police accountability and constitutional rights. In perfect testing conditions, FRT misfires. While "margins of error may be acceptable [in a laboratory setting]," in the real world, wrongful arrests due to misidentifications irreparably damage people's lives. *Testimony*, at 5.

II.   People Suffer Severe Detrimental Consequences from Unnecessary Pretrial Detention

Concealing the use of FRT was a *Brady* violation and, at a minimum, a violation

of the State's discovery obligations. The trial court failed to apply the proper standard for

remedying these violations, which required giving significant weight to irreparable

prejudice, including that created by ongoing pretrial detention. *Taliaferro v. State*, 456

A.2d 29, 37 (Md. 1983) (requiring courts to remedy discovery violations by considering,

among other factors, "the degree of prejudice" and whether that "resulting prejudice

might be cured by a postponement.").

When considering whether a continuance without pretrial release was an adequate

remedy for these violations, the Court should weigh, as Mr. Johnson must have,[2] the

deleterious impacts of pretrial detention on the fairness of the proceedings and its harmful

burdens on individuals, their families, and their communities. Research has shown that

pretrial detainees suffer the same deprivations of liberty, property, and privacy as

convicted individuals. Samuel R. Wiseman, *Pretrial Detention and the Right to Be*

Monitored, 123 Yale L.J. 1344, 1353–54 (2014).

A.   Pretrial Detention Causes Adverse Case Outcomes

Pretrial detention significantly impacts case outcomes as it is the single greatest

predictor of a sentence to jail or prison. Mary T. Phillips, *A Decade of Bail Research in*

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[2]   The court raised the possibility of a new bond hearing before a specific judge on a later date. Given that Mr. Johnson had already been denied bond multiple times, including by that judge and after being acquitted on unrelated charges that had been a factor in his ongoing pretrial detention, he proceeded with trial. *See* Appellant Br. 20.

New York City, N.Y.C. Crim. Just. Agency, Inc. 115–123 (2012), https://www.prison

policy.org/scans/DecadeBailResearch12.pdf. "Released defendants are significantly less

likely to be found guilty of an offense, to plead guilty to a charge, and to be incarcerated

following case disposition." Will Dobbie et al., *The Effects of Pretrial Detention on*

Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges,

108:2 Am. Econ. R. 201, 225 (2018).

Pretrial detention hinders a person's ability to mount a successful defense. A

detained "defendant must recruit friends or family members to collect evidence and

witnesses and will often have difficulty communicating with his attorney due to limited

visiting hours." Wiseman, *supra*, at 1355–56. Detention can limit the financial resources

available to dedicate to the defense (if, for instance, detention results in loss of wages).

Leon Digard & Elizabeth Swavola, *Justice Denied: The Impact of Pretrial Detention on*

Low-Income Defendants, Vera Inst. of Just. 5 (2024), https://vera-institute.files.

svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf.

Additionally, detention prevents individuals from engaging in "prophylactic measures"

such as paying restitution, seeking treatment, and pursuing education which increase the

likelihood of acquittal, dismissal, or diversion. *Id.*

Furthermore, detained individuals receive longer jail and prison sentences than

those released before trial. *Id.* One study showed that pretrial detainees were four times

more likely to be sentenced to prison and, on average, received sentences that were over

twice as long as individuals released pretrial. *Id.*

B.   The Detrimental Effects of Pretrial Detention on Individuals, Their Families, and Communities

Pretrial detention leads to private costs for individuals beyond their loss of liberty. Almost half have reported material loss including legal debt (36%), missed work (40%), lost jobs (18%), and lost property (18%). Sandra Susan Smith*, How Pretrial Incarceration Diminishes Individuals' Employment Prospects*, 86.3 Federal Probation 11, 12 (2022). While many of these harms can occur within days of detention as "[a] person detained for even a few days may lose her job, housing, or custody of her children," Paul Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 Stan. L. Rev. 711, 773 (2017), longer periods of pretrial detention compound the psychological and mental costs of being physically incapacitated and the risk of injury or death while in jail. *See e.g.,* Andrea Woods & Benjamin Lynde, *The Deadly and Tragic Costs of Pretrial Detention*, ACLU (Aug. 3, 2023), https://www.aclu.org/news/criminal-law-reform/the-deadly-and-tragic-costs-of-pretrial-detention (describing the death of LaShawn Thompson, who died from neglect, malnourishment, and insect infestation while detained pretrial after being unable to afford $2,500 in bail for a misdemeanor charge); *see* Jennifer Gonnerman, *Kalief Browder, 1993-2015*, New Yorker (June 7, 2015), http://www.newyorker.com/news/news-desk/kalief-browder-1993-2015 (recounting the tragic death of Kalief Browder, a teenager who committed suicide after release, having endured three years in detention—two of them in solitary confinement—on a charge of stealing a backpack, while awaiting a trial that never took place).

The Court should consider the broader effects of unnecessary pretrial detention when evaluating whether a continuance was an adequate remedy for a *Brady* or discovery violation. In Maryland, as of January 2024, approximately 83% of the local jail population was awaiting trial. Md. Governor's Off. of Crime Prevention & Policy, *Local Detention Center Population Statistics Dashboard*, https://gocpp.maryland.gov/data-dashboards/local-detention-center-dashboard. Yet a recent study found that in 2019, "the overwhelming majority of defendants who . . . were detained during their pretrial period eventually had all charges dropped." Balt. Action Legal Team, *2019 Bail Hearings and Case Outcomes* 13 (2022), https://www.baltimoreactionlegal.org/new-blog/2019pretrial datareport.

The over-use of pretrial detention harms not only those detained, but the community as a whole, "depriving it of parents, income-earners, teachers, role models, and political leaders. The community impact of excessive pretrial detention furthers the social exclusion of marginalized groups, increases their poverty, and decreases their political power." Open Soc'y Just. Initiative, *The Socioeconomic Impact of Pretrial Detention* 33–34 (2011), https://www.justiceinitiative.org/uploads/84baf76d-0764-42db-9ddd-0106dbc5c400/socioeconomic-impact-pretrial-detention-02012011.pdf.

Families of detained individuals "suffer from lost income and forfeited education opportunities, including a multi-generational effect in which the children of detainees suffer reduced educational attainment and lower lifetime income." *Id.* at 12; *see United States v. Barber*, 140 U.S. 164, 167 (1891) (stating that those detained prior to trial

"usually belong to the poorest class of people" and "their families would be deprived, in many instances, of their assistance and support").

Community-level consequences are most evident among Black and Latine communities, as they are disproportionately represented in jails across the country. "Black and Hispanic individuals are more likely than White people with similar criminal histories and charges to be arrested and held in jail before trial" and "tend to have higher bails set and receive lengthier and more punitive sanctions, such as incarceration rather than probation." Pew Charitable Trs., *Racial Disparities Persist in Many U.S. Jails* (May 16, 2023), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/05/racial-disparities-persist-in-many-us-jails#:~:text=Research%20has%20shown%20that%20Black,as%20incarceration%20rather%20than%20probation.

Pretrial detention has serious, wide-ranging consequences that extend well beyond the individual detained. These consequences are particularly troubling when they result from unwarranted pretrial detention and the downward spiral that can result. Detention places an overwhelming burden on the person's family and community, exacerbates racial inequities, and leads to adverse legal outcomes that may affect a person's prospects for years to come. Mr. Johnson had already been detained for approximately a year when faced with the choice to delay his trial for an undetermined period, with no likelihood of pretrial release, in order to pursue the fairness the State should have provided a year earlier. The detrimental impacts of unnecessary pretrial detention should weigh heavily in the Court's consideration of that dilemma.

CONCLUSION

For these reasons, Amici Curiae respectfully urge this Court to rule for the

Appellant.

Respectfully submitted,

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CERTIFICATE OF RULES COMPLIANCE

1. This brief contains 3,875 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Sahar Atassi
Sahar Atassi

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Rule 20-201(g), on December 2, 2024, the foregoing Brief of Amici Curiae was served via the MDEC File and Serve Module, and that, pursuant to Rule 8-502(c), two copies each were mailed, postage prepaid, first-class, to:

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APPENDIX

The mission of the **Maryland Criminal Defense Attorneys' Association** ("MCDAA") includes research, education, and advocacy relating to criminal defense practice, the proper administration of justice, and the protection of individual rights. MCDAA respectfully joins this brief of amici curiae to address the troubling implications of using flawed facial recognition technology without timely disclosure and to highlight the collateral consequences attendant with lengthy pre-trial detention, particularly on low-income communities and communities of color.

The **Baltimore Action Legal Team** ("BALT") is a community lawyering organization that formed in April 2015 in response to a call from community organizations for legal assistance. BALT transitioned from providing emergency response services during the Baltimore Uprising to working towards addressing structural causes of its symptoms. This work includes close partnerships with community organizations in presenting legal education, policy advocacy, and legal representation. BALT operates under 501c3 status. BALT has an interest in this case because of its commitment to transparency in the justice system and enabling transparency for the community.