

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DONALD S. WILLEY ET AL.,

Plaintiffs,

v.

ANTHONY G. BROWN ET AL.,

Defendants.

Civil No. 23-2299-BAH

* * * * *

CERTIFICATION ORDER

The parties dispute the meaning of the term “reasonable grounds” in Maryland’s Red Flag Law, codified in Title Five of the Public Safety Article of the Maryland Annotated Code. Md. Code Ann., Pub. Saf. (“PS”) § 5-601 et seq. Specifically, the parties dispute whether reasonable grounds in PS § 5-603 and PS § 5-604 equates to “reasonable suspicion” or “probable cause.” The correct interpretation of these provisions bears directly on the Fourth Amendment constitutional challenge Plaintiffs present. Federal courts analyzing a state law’s constitutional validity defer to the state’s highest court on the meaning of the state law. *Castillo v. Holder*, 776 F.3d 262, 268 n.3 (4th Cir. 2015) (quoting *United States v. Aparicio-Soria*, 740 F.3d 152, 154 (4th Cir. 2014) (en banc)). There is no Maryland case interpreting the disputed provision of PS § 5-601 et seq. Principles of comity weigh in favor of permitting the state’s highest court to determine the meaning of its own law. Additionally, Maryland’s Red Flag Law addresses important issues that impact public safety. For example, Maryland’s Red Flag Law may prevent possession of firearms by those who may wish to use them for self-protection. It may also impede the possession of firearms by individuals who wish to use them to harm themselves or others. Given the importance of these

issues and the impact Maryland's Red Flag Law has on community safety, the Court considers it appropriate to request a definitive interpretation of the Maryland statute from the Supreme Court of Maryland. Pursuant to the Maryland Code,¹ this Court requests that the Supreme Court of Maryland answer the following questions of law:

1. What legal standard does the term "reasonable grounds" connote in Maryland's Red Flag Law, codified in Title Five of the Public Safety Article of the Maryland Annotated Code?
2. Does the statute permit an extreme risk protective order to issue upon a standard less than probable cause?

The Supreme Court of Maryland, acting as the receiving court, is at liberty to reformulate the questions.² The facts relevant to the questions are set forth in the attached Memoranda Opinion of even date (copy attached).

Plaintiffs and Defendants are each ORDERED to provide a check to the Clerk of this Court payable to the Clerk of the Supreme Court of Maryland in the amount of \$30.50 for their respective halves of the filing fee for docketing regular appeals, pursuant to Maryland Rule 8-305(b), within seven (7) days of the date this Order is docketed. Upon receipt of the filing fee referenced above, the Clerk of this Court SHALL transmit to the Supreme Court of Maryland, under the official seal of this Court, the original and seven copies of this Order, and seven copies of all other docket entries in this case, together with the filing fee. The Clerk of this Court SHALL fulfill any request, upon notification, from the Clerk of Court for the Supreme Court of Maryland for all or part of the record in this matter.

¹ Md. Code Ann., Cts. & Jud. Proc. ("CJP") § 12-601 et seq.

² Pursuant to CJP § 12-604.

Counsel in this matter are as follows:

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Dated: July 25, 2024

/s/

Brendan A. Hurson
United States District Judge