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Court of Appeals Holds that Court Personnel Wearing Thin Blue Line Masks was Inherently Prejudicial

For Release: August 30, 2022

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Last Friday, [the Maryland Court of Appeals vacated the conviction of Office of the Public Defender \(OPD\) client Everett Smith](#), holding that his Sixth Amendment right to a fair trial was violated when court bailiffs wore facemasks with the thin blue line insignia during his trial.

“We are very pleased that the Court recognized the inherently prejudicial nature of the thin blue line symbol with all of its meanings, including as a pro-law enforcement expression, during a criminal proceeding, and the particularly problematic impact here of court personnel displaying such an evocative symbol during Mr. Smith’s trial,” said Assistant Public Defenders Michele Hall and Rachel Kamins, who represented Mr. Smith before the Court of Appeals.

The thin blue line insignia was adopted by the ‘Blue Lives Matter’ movement, which launched in response to the Black Lives Matter movement, as an expression of support for law enforcement. It has also been associated with white supremacist groups.

The Court noted that [“the thin blue line, among other things, can be viewed as expressing general support for law enforcement, or expressing the belief that police stand between civilized society and criminals, or expressing support for white supremacy. Although these messages range from benign to malevolent, none of them should be conveyed to the jury in a criminal trial.”](#) The Court also held that the masks were particularly prejudicial in the context of Mr. Smith’s trial – which occurred in the aftermath of George Floyd’s murder, the resulting Black Lives Matter protests, and the pro-police counter protests – and may suggest to a juror that the court was siding with law enforcement.

“In addition to its pro-police message, given the extreme racial disparities throughout the criminal justice system, the use of the thin blue line insignia by some white supremacy groups makes it particularly problematic for court personnel to display, whether or not they support those groups,” Hall and Kamins noted. [A 2019 report by Justice Policy Institute found that Maryland has the highest percentage of Black prisoners of any state in the country.](#)

Prior to bringing this appeal, the appellate team surveyed OPD offices across the state and identified fifteen jurisdictions in which public defenders observed bailiffs, sheriffs, courtroom staff, and/or testifying officers wearing thin blue line apparel. In light of the concerns raised by OPD, prior to the Court of Appeals’ decision, [District Court Chief Judge John Morrissey issued a directive that prohibited district court personnel from wearing masks and other apparel with the thin blue line insignia.](#) The Baltimore County Circuit Court Administrative Judge also banned these masks by court personnel after a complaint by the local District Public Defender.

From Maryland Public Defender Natasha Dartigue: “In addition to providing Mr. Smith with a new trial, this appeal was an important victory for OPD and our efforts to root out actions that may reflect bias against our clients. We applaud the Court of Appeals, as well as the Chief District Judge, and the Baltimore County Circuit Court Administrative Judge who banned this practice as a result of OPD advocacy.”

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