
**In the
Supreme Court of the United States**

**State of Maryland,
Petitioner-Prosecution,**

v.

**Anthony Lancaster,
Respondent-Defendant.**

**Rebecca Williams,
Petitioner-Plaintiff,**

v.

**Samantha Chadwick,
Respondent-Defendant.**

Pursuant to the Order of the Supreme Court the above captioned cases have been consolidated for purposes of oral argument before the court. The Record on Appeal in these consolidated matters consists of four parts:

Part I: Facts related to State v. Lancaster and Williams v. Chadwick

Part I: Disposition below of State v. Lancaster

Part III: Additional facts related only to Williams v. Chadwick

Part IV. Disposition below of Williams v. Chadwick

Part I: Facts related to the State v. Lancaster and Williams v. Chadwick

Thomas Pratt High School (“Pratt High”) is located in Johnson County, Maryland.¹ Johnson County is a large, predominately suburban/rural county, with approximately 55,000 residents. The racial make-up of Johnson County, as determined by the 2010 census, was 76% white, 15 % black or African-American, 4% Latino or Hispanic, 2% Asian, 0.3% American Indian, 1.0% other races, and 1.7% from two or more races.

Pratt High is one of 4 public high schools operated by the Board of Education of Johnson County (“Board”). The school colors are black and gold. The school teams are known as “Pirates”. During the 2016-2017 school year, Pratt High had an enrollment of 1,315 students. According to the Maryland State Department of Education, the racial make-up of the student body during that school year was 62% White, 25% African-American, 8% Latino or Hispanic, 1.3% Asian/Pacific Island, .7% Native American and 3% “Other”.

In the Fall of 2016, Anthony Lancaster (“Lancaster”) was a senior at Pratt High. Lancaster turned 18 years old on October 3, 2016.

Pratt High School has a celebrated football program. The school had been Maryland state champions in 2009 and 2013, and had appeared in the state football playoffs from 2006-2014. The school’s players were often recruited by top colleges and universities. The team played nationally ranked schools from around the state and country. The team was a source of a great deal of pride in the Pratt High community and Johnson County. The team had its own website and its own sports boosters club. The team played at a football stadium adjacent to the campus that seats 6,000 spectators. Games were typically sold out.

Lancaster was a member of the Pratt football team. He was a gifted player who was being recruited by national college football powers. He was the starting quarterback of the Pratt team and the team was undefeated in its first six games of the 2016 season. The Pratt High football team in 2016 had 45 team members. Of those 45 students, 33 were African-American, 4 were Latino, and 8 were Caucasian.

Section 26-301 of the Transportation Article of the Maryland Annotated Code states², in pertinent part that:

- (b)... any State agency authorized by law and any political subdivision of this State may adopt ordinances or regulations that:
 - (1) Regulate the parking of vehicles;
 - (2) Provide for the impounding of vehicles parked in violation of the ordinances or regulations;
 - (3) Regulate the towing of vehicles from publicly owned and privately-owned parking lots; and

¹ This case, and the persons, institutions, and events referenced herein, are entirely fictional and presented solely for the purposes of this moot court problem.

² The provisions of the “Maryland Annotated Code” provided herein, although modeled on actual statutes, are fictitious. Counsel in this case may not cite or discuss any other Maryland statute or any case interpreting actual Maryland laws that do not appear in the case law portion of the materials associated with this argument.

(4) Provide for the issuance of a citation by an officer for a violation of an ordinance or regulation that is adopted under this section.

Section 26-1003 (gg) of the Transportation Article of the Maryland Annotated Code states, in pertinent part:

A person may not park a vehicle on any property owned by the Board of Education of Johnson County where parking is prohibited by an official sign.

Rule 103 of the Board of Education of Johnson County (“Board”) states, in pertinent part³:

Johnson County Schools shall establish appropriate rules governing access to school property and facilities including but not limited to use of ...parking spaces... Schools shall post signs on school property stating...where parking is prohibited.⁴

Pratt High features three parking areas on the school campus. One parking area consists of 25 parking places near the main entrance to the school. 15 of those spaces are reserved for school administrators. Each of these spaces features an individual sign posted on a pole at the head of the parking space that says “By order of the Johnson County School Board Reserved for School Administration Only. All Other Vehicles Subject to Ticket and Tow.”

The remaining 10 spaces near the main entrance are reserved for visitors. Each of those spaces features an individual sign posted on a pole at the head of the parking space that says, “By order of the Johnson County School Board Reserved 7:00 a.m. to 3:00 p.m. for Visitors ONLY- All Other Vehicles Subject to Ticket and Tow”.

The school also has a parking lot at the side of the school reserved for school faculty. It consists of 76 spaces. The individual spaces in that lot do not feature individual markings, but there is a large sign at the entrance to the lot that says “By order of the Johnson County School Board Reserved 7:00 a.m. to 3:00 p.m. for Faculty ONLY- parking by students prohibited. All Other Vehicles Subject to Ticket and Tow”.

The school also has a parking lot for student vehicles. It is located directly adjacent to the school’s athletic fields. This parking lot has 250 spaces. There are no individual signs posted in this lot. There is a large sign at the entrance to this lot that says, “By order of the Johnson County School Board Reserved 7:00 a.m. to 3:00 p.m. for Students With Parking Permits ONLY-All Other Vehicles Subject to Ticket and Tow”.

In 2016, Pratt High permitted students to apply for a parking permit. Pratt High made such permits available on a first come first served basis to any student who was a licensed driver who registered their vehicle with the school and paid a \$10 fee. In order to register to park, a student had to see Carter Holden (“Holden”), the Pratt faculty member in charge of parking, to register the vehicle, pay the

³ It is stipulated by all parties that the Rule established by the Board regarding parking at Pratt High was properly enacted and was in force in this case. Counsel may make no argument contrary to this stipulation. Counsel may, of course, argue as to the weight such facts should be given in resolving the Constitutional issues raised herein.

⁴ All parties have stipulated that the Board is a “state agency” for purposes of Section 26-301 of the Transportation Article and that t

parking fee, receive a parking tag, and receive a document describing the rules for student parking at the school. Holden was assigned this job as a teacher “duty” and was given one period each day in which he had no class or other responsibility in order to provide time for him to administer the parking program.

In a deposition taken in this case, Holden described the information needed to register a student vehicle as being “minimal”. In this regard, he testified:

the basic form the student filed out was pretty simple. You provided information like your birthdate, your driver’s license information, information on the vehicle that you would be driving, proof of insurance, that sort of thing. Once you filled out that form and paid your \$10 then you got your permit and a copy of the parking rules.

Holden testified that he did not attempt to independently verify any of the information on the forms submitted to him. In this regard, he testified

I just kept the forms on file. I didn’t make any effort to look up their records at the Department of Motor Vehicles or anything like that. That wasn’t the purpose here. The only reason to have the cars registered was to limit the number of people parking in those student lots. And, I guess, to make sure we know who is on campus. We have lots of kids who can drive. If it was a free-for-all every morning for those 250 spaces, then that would be a madhouse. For goodness sakes, it would be dangerous. We only issue student 230 permits a year. We just did this to make sure the number of students parking on campus was limited and that the students stayed in the student lot-and didn’t take spaces from the faculty, administrators and visitors.”

Holden testified that the fees the school collected for parking registrations were deposited in the School’s Sports Booster Account each year. Holden stated that the parking program was not viewed as a significant source of revenue for the school. He testified “we didn’t charge the money to pay for the program or anything-we just did it to try and limit somewhat the number of people who wanted spaces, and to pay for the plastic tags. Other than having to pay for new tags each year, there were no real costs associated with the program.”

The parking permit itself was a 4 inch by 3-inch plastic tag meant to hang on a rearview mirror. The tag during the 2016-2017 school year was white with blue lettering and said, “Student Parking Lot” and featured the number assigned to that student and the school year for which the tag was issued. According to Holden, the number did not correspond to any particular parking space, it simply denoted the number assigned to the student’s registration.

When each student submitted their registration form, fee and parking tag they received a typed single page document entitled “Parking Do’s and Don’ts”. The text of this document was also featured on the Pratt High website.

The “Parking Dos and Don’ts” document, inter alia, contained the following information:

- Parking at Pratt is a privilege, not a right. In order to make sure we have spaces for everyone who has registered and keep the school safe, you must follow these rules. If you do not follow these rules your car could be ticketed and/or towed, and you could receive other school punishment such as detention or a suspension or loss of parking privileges.

- Your parking pass permits you to park ONLY in the student lot located next to the football stadium. You may not park at any time in the faculty lot or in the administrator/visitor lot in front of the school. If you park in these lots, even if your vehicle is registered, you are breaking the school rules and you will be ticketed or towed. You may also be subject to other school discipline including loss of parking privileges.
- Anytime your vehicle is parked in the student lot you must have your parking tag clearly visible- either hanging from your rear-view mirror or placed on the front dashboard. If you do not display your registration tag then your car will be ticketed or towed, and you may be subject to other school discipline, including loss of parking privileges.

At the bottom of the “Dos and Don’ts” document there was an acknowledgement statement that said: “I have read the foregoing rules and understand that I must follow them or be subject to the penalties described therein” and a space for the registering student to sign their name. At the time the student registered their car, they signed a copy of the document and Holden kept that copy on file.

Holden testified that he and School Resource Officer Brandon James (“James”)⁵ handled enforcement of the parking rules. Holden stated in this regard that he would occasionally go out to the parking lots to see if the parking rules were being followed. Sometimes he would be accompanied by James. The pertinent portions of Holden’s sworn deposition testimony in this case related to parking enforcement was as follows:

Question (counsel for the Defendant): How were these parking rules enforced?

Holden: Well, enforcement was not that big a deal. I mean, we did our best. I didn’t go out every day to check the lots, but on some days-maybe once a week I would go out, if the weather was good, and check on things.

Question: What did you do specifically?

Holden: I would go to the student lot and see if there were any cars without tags. If there were, I would write down the license number and such. Then if I got time I would check my registration forms to see if the car was registered to a student. If it was, I would send them a note in their homeroom to remind them to use their tag. That was usually enough to get it taken care of. If I noticed that a car kept showing up in the parking lot that was not registered to a student, I would ask Officer James to run their license plate to see who they were. You don’t want to have unaccounted-for strangers on campus. That could be dangerous. School safety is a big issue for us. Usually though, it was just a student who was registered but bringing a different car to school that day.

Question: What did you do when this happened?

⁵Johnson County utilizes members of the Johnson County Sheriff’s department as School Resource Officers (“SROs”) in the public high schools and middle schools in Johnson County. SRO duties include law enforcement activities on the campus of their assigned school. SROs wear the full uniform of a member of the Johnson County Sheriff’s department while on duty in school and are armed. SROs are also encouraged to participate in education-related activities as assigned by school administrators. In this regard SRO James had, in the past, assisted Social Studies teachers in presentation of class lessons on criminal justice issues.

Holden: Again, if it was a student I would give them a note that said to make sure and put up their registration tag. If it was an outsider, I left that up to Officer James.

Question: Did you ever have cars towed or ticketed?

Holden: Occasionally. I mean it is against the law and we have those signs posted all over the place. And the students are warned when they get their permit-but we don't do a lot of the ticketing or towing. Usually right at the beginning of each year we will make some announcements in home room reminding students about the rules and that we'll be ticketing. Then, like in the third week of school, on a day it isn't raining, James and I will go out and issue some tickets. Once we do that the kids pretty much shape up and we don't have to do very much for the rest of the year. Sometimes, we do that again in the spring when you typically have some new kids in the lot. But that's usually about it. A couple of years ago, we had did have some construction on campus and we had only 100 spaces in the student lot. Even though we limited the number of permits we gave out that year it was pretty challenging. Kids just wouldn't stop parking illegally. That year, we did have to have some cars towed in order to get the message through.

Question: Did you personally issue tickets?

Holden: Oh no. That was always Officer James. These were real tickets-like you would get if you were parked illegally on the street. The students had to pay up to the County or go to court.

Question: Who made the towing decisions?

Holden: That was Officer James too-because that was like an official thing. He had to do it in order for it to be legal. I might tell him that I had seen a certain vehicle illegally parked or whatever, but it was his decision as to whether to ticket or tow it.

Question: Prior to October 27, 2016 had you ever participated in any decision to ticket or tow cars from the lot in front of the school?

Holden: The lot for the administrators and visitors?

Question: Yes.

Holden: I guess so, yeah. Several years ago, we had a local resident who would park in those spaces during the school day and go walk his dog out by the fields. An old guy. I guess he was retired or something. Several faculty had seen him. It was kind of a problem because he'd be out there when gym classes were going on. Sometimes he would talk to the students and let the dog run around. It had kind of a sketchy feel to it. Nobody really knew who he was. We talked to him about not doing this during the school day, but he was a jerk about it. Told us he paid taxes, so he could use the school grounds whenever he wanted. After a bunch of warnings his car got ticketed and towed. That was it. And he didn't come back.

Question: So, would that have been the only time to your knowledge anyone besides administrators and visitors used those spaces during the time you handled the parking program?

Holden: Of course not. I'm sure others parked there-maybe faculty or students if they were just running into the building and coming right back out. I mean, I've done it on occasion. Probably

others if it was raining and they were running late or something. I didn't really worry too much about that lot. I was more focused on the student and faculty lots.

Evidence was submitted in *State v. Lancaster* that Holden's testimony regarding the use of the occasional administrator/visitor lot by others was correct. In general, the evidence was that the lot had been used by nonauthorized persons on a temporary and sporadic basis, but that, with the exception of the one incident referred to by Holden, no person had been ticketed or towed for these actions prior to October 27, 2016.

On September 6, 2016, Lancaster registered a motor vehicle for parking at Pratt High. Holden handled the registration process. Lancaster paid \$10 and correctly and completely filled out the registration form for parking for a 2016 Lexus GX 460 automobile.⁶ Lancaster received and signed a copy of the Parking Dos and Don'ts document and received a student parking tag.

In September of 2016, a fight between students occurred in the Pratt High Cafeteria. According to reports featured on local television stations and newspaper accounts, the fight began as a verbal altercation at lunch between a group of African-American students and a roughly equal size group of white students. According to those reports, there were as many as 20 students involved. Members of the Johnson County Sheriff's department as well as SRO James responded to the incident. One student was arrested at the scene and charged as a juvenile.

Because of the fight, two students were sent to a local hospital. One of the students was white, one was African-American. Both were treated for non-life-threatening injuries and released.

The Principal of Pratt High during the 2016-2017 school year was Samantha Chadwick ("Chadwick"). Chadwick is white. Chadwick took various disciplinary actions because of the fight. Specifically, Chadwick suspended and recommended 1 student for expulsion from the Johnson County School system, suspended 2 students for 30 days, suspended 3 students for 2 days and required 6 students to attend an hour-long after-school detention class.⁷ 5 of the 6 suspended students were African-American. 4 of the 6 students assigned detention were white. None of the students involved in the incident were football players.

Principal Chadwick's actions received widespread publicity through local news media. In this context, she was interviewed as part of a televised news report during which she stated:

For privacy reasons, I can't discuss the specifics of each case, but I assure you that we acted fairly. Some students are just more inclined, for whatever reason-whether it's their background or their personality-to try to settle differences by beating someone up. We can't have that in school. It is our job to assure every parent out there that when they send their child to Pratt each day they won't have to be afraid of them being attacked.

Lengthy reports on the incident appeared on all three local television newscasts and in the one local paper-The *Johnson County Post*. Accounts of the incident also appeared as smaller items in the *Baltimore Sun* and the *Washington Post*. On October 13, 2016, Anita Howard ("Howard"), Chair of the

⁶ The vehicle was properly registered to Lancaster's parents. Lancaster was a properly licensed driver in the state of Maryland. He was driving the vehicle with his parent's permission. All parties agree Lancaster's vehicle was properly registered for parking at Pratt during the 2016-2017 school year.

⁷ All Chadwick's disciplinary actions related to the fight were upheld by the Board.

Johnson County chapter of the NAACP, held a press conference in front of the school in which she decried the racial disparity in the punishments received by the students. In this regard, she highlighted a recent Maryland State Department of Education study that had concluded inter alia that:

- For the same type of infraction, Black students had higher rates of out-of-school suspension or expulsion than did Hispanic and White students.
- In all 24 Maryland school systems Black students received out-of-school suspension or expulsion at more than twice the rate of White students.

Howard characterized the widely quoted remarks of Chadwick as “coded racism” and called for her dismissal. She also demanded that the Johnson County School Board undertake a new investigation of the incident. Howard’s comments were featured in local news reports.

A week following Howard’s press conference a newly formed group called Pratt Parents for Safe Schools (PPSS) held their own press conference in front of the school. Their spokesperson, Glenn Harrison (“Harrison”) made a speech in which he lauded Chadwick’s actions and criticized what he characterized as “outsiders playing the race card.” In this regard he said:

This isn’t a race issue, it is a safety issue. We don’t want our kids having to fight their way through the hallways each day. We didn’t have this kind of violence when I went to Pratt 25 years ago. We need to get the bad element out of the school and get back to teaching and learning.

Howard’s comments were also featured prominently in local television news and the *Johnson County Post*.

Within the school, students also expressed their opinions regarding the incident. In this regard, there was evidence that:

- Social studies teachers devoted various classes to discussion of the controversy
- There were competing editorials written by students about the incident and its aftermath in the school newspaper.

There was also abundant evidence submitted at trial to the effect that the fight and its aftermath was the subject of intense and continuing interest on social media among students as well as the local community.

One of the students who spoke out on social media about the incident was Lancaster. On Facebook and Twitter, Lancaster made various statements supporting Johnson’s remarks and decriing what he characterized as “pervasive racism” at Pratt High. In one posting on Twitter Lancaster stated “What all this says to me is that it’s ok for you [white] people to have us [African-American students] throw a pass or hit a basket or win championships but when it comes to treating us fairly, like human beings, we will always be outsiders. This is just wrong. #not fair”.

On Friday October 21, 2016, Pratt High played Taney High School, another Johnson County school, for Pratt’s homecoming football game. As usual, the Pratt stadium was filled. As a homecoming game, there were ceremonies that preceded the game. Various returning alumni were honored. Local dignitaries, including school board members and politicians, were introduced. The “Pirate flag” always displayed for home games, was raised and the teams were introduced. The spectators were then asked to stand for

the raising of the American flag and the singing of the National Anthem. As the flag was being raised, Lancaster and 5 of his teammates, all African-Americans, stepped out of their place in line and stood immediately behind the student preparing to sing the national anthem. They each held up signs. 5 of the signs had the name of one of the 5 African-American students who had been suspended because of the incident. The sign held up by Lancaster stated, "No Justice No peace". The players did not interfere with the singing of the anthem.

The players' actions elicited strong reactions from the spectators. There was some cheering. In response to the cheering, the majority of the fans started to boo and jeer. In response to the booing, some fans stated to chant "No Justice, No peace." Some responded by singing the National Anthem louder. As the 6 players rejoined their teammates, there appeared to be angry words exchanged among players about the protest. Some fans left the game in apparent protest of the students' actions. The game was played without incident.

The protest by the students and the community reaction to it was extensively covered by local media. In that context, Lancaster was interviewed frequently. In an article in the *Johnson County Post* he was quoted as saying:

We're not asking for any special favors. We are just asking for equality. The SRO here, some administrators and teachers, when they see a black student, they don't see a person, they see a "thug" and they overreact. We get questioned more than white kids. We get suspended more than white kids. I can't tell you how many times me, my brother, my friends have been stopped by police, questioned by somebody when they would never think of stopping a white person. That's not right. We should all be treated the same.

Lancaster also announced on his social media that the players supporting his position would be featuring a black armband on their uniform in the next game and would hold up five fingers during the national anthem to symbolize their support for their five suspended classmates.

Principal Chadwick was quoted in the same article saying:

We cannot punish students for exercising their First Amendment rights. But we strongly disagree that there is any racism at Pratt High. When we enforce the rules the race of the student never matters. We judge everyone not on the color of their skin but on their conduct at our school. If we talk to a student or discipline a student, it's not because of their race-it's because we are trying to keep our school community safe.

On October 25, the Johnson County chapter of the NAACP announced that it would be demonstrating outside the Pratt football game on October 28 "in order to take a stand against systemic and persistent racism in Johnson County Schools." On the same day the PPSS announced that it would be holding a counter demonstration that day outside the stadium "in order to show support for our administrators and respect for the flag."

On Thursday October 27, 2016, Lancaster was running late getting to school. As he drove his Lexus automobile into the main entrance to the school he realized that if he went to park in the student lot near the athletic fields he would be late to his first period class. If he was late to his first period class, he would be given detention that would have to be served for an hour after school that day-and if that occurred he would not be able to play the entire football game the next day. Pratt's coach had a rule

that if you did not participate in a full practice the day before a game you could not play in the first quarter of that game.

Because Lancaster's first period class was located near the front entrance to the school (in fact, the administrator/visitor parking lot was visible from a window in that classroom), Lancaster believed he could make it to first period in time if he parked in one of the visitor parking spaces. Therefore, Lancaster parked his car in the visitor portion of the administrator/visitor parking lot in front of the school. Lancaster locked and left his car there and ran into school (and was on time for his first period class). Lancaster's student parking tag was affixed to his rearview mirror and visible to those outside the car. Lancaster testified that he was going to move his car after first period was over, because his second period class was gym and the teacher for that class would give him a pass to leave and move the car to the student lot.

At approximately 7:45 a.m. (10 minutes after the beginning 1st period) James was walking in front of the school when he saw Lancaster's vehicle parked in the visitor portion of the front parking lot.

James was deposed under oath in this case. The transcript of that deposition is part of the record in this case. In the portion of James' deposition relating to James' actions after seeing Lancaster's car, James testified as follows:

Question (Defendant's counsel): What happened then?

James: When?

Question: After you saw Lancaster's vehicle in the visitor's parking lot at approximately 7:45 a.m. on October 27.

James: Well I knew it was parked illegally. I mean, it had the student parking tag hanging from the rear-view mirror, so it was pretty obvious.

Question: Did you know it was Mr. Lancaster's car?

James: Of course. Everybody in the school knew that was his car. I don't know many teachers who have that nice of a car. I sure can't afford it. And he was driving it around as a senior in high school! Believe me, ever since Lancaster got to Pratt he has made it pretty clear that he thinks he's better than everyone else.

Question: What did you do next?

James: Well since it was parked illegally, and since I don't want to be accused by anyone of not following all the rules when it comes to student infractions, I walked over to where my squad car was parked-it was only 20 or 30 feet away, got in the squad car, and pulled it up behind the Lancaster vehicle, turned on my lights and exited my vehicle.

Question: Why did you take these actions?

James: Standard procedure. I wanted to make sure that if the driver showed up he wouldn't try to drive the car away before I could take care of processing it. I turned on the lights so as to be visible to any oncoming traffic in the parking lot.

Question: By "processing it", what do you mean?

James: I was going to issue a ticket and call for a tow-both of which the law permits me to do.

Question: What happened next?

James: Well before I could even write the ticket, Lancaster comes roaring out of the entrance closest to the parking lot, giving me a lot of lip-“What are you doing?” “Get your hands off my car?” “Don’t you touch my car” that kind of thing. So, I calmly informed Mr. Lancaster that the car was parked illegally and that I would be issuing him a ticket and calling for a tow truck and that I would give him all the information he needed to get the vehicle back from the garage once the paper work was completed. Well, he didn’t like that very much and he became angry. By this time some students had started to gather around, and it seemed like things could get out of hand. You know things at school had been kind of tense that fall. I called on my school walkie talkie for the administrative team to give me a hand and a couple of administrators came along to help move the crowd away. I had my hands full managing Mr. Lancaster and the crowd, so I hadn’t even written the ticket when the tow truck pulled up.

Question: Then what happened?

James: Mr. Lancaster stopped yelling and seemed to realize the car was going to be towed. He asked me if he could get his personal stuff out of the car before the tow. He said he needed his lunch and his stuff for football practice. Because I was not trying to give him a hard time, I, of course, said yes. I then watched as he took out his keys and went immediately to the passenger’s side of the vehicle and opened the front passenger’s door and then went and reached underneath the front passenger seat for something. I thought this was curious since I doubted his shoulder pads or lunch would be under the front passenger’s seat, so I watched carefully. It appeared that he took something small from under the seat and put it into his right front pants pocket. He also appeared to be moving in such a way to be hiding whatever he put in his pants from my view. It occurred to me it might be drugs that he was then going to take into the school. We, of course, do not tolerate drugs in school. I asked to see what he had taken out of the car. He said he hadn’t taken anything out of the car. I then conducted a search of his person and found a small clear sandwich bag with a green leafy substance in it in his front right pants pocket. The state crime lab later confirmed that it was a bag containing marijuana. I then proceeded to place Mr. Lancaster under arrest.

Question: How much marijuana was in the bag?

James: According to the lab-12 grams.⁸

Question: Are you aware of the fact that Lancaster had singled you out in some of his public comments relating to the fight that took place in the cafeteria in September?

James: Of course. But that that had nothing to do with my actions on the 27th. As a police officer you have to have a pretty thick skin. I was just enforcing the law.

⁸ Pursuant to Section 5-601 of the Criminal Law Article of the Maryland Annotated Code applicable on October 27, 2016, possession of more than 10 ounces of marijuana was a crime. Possession of less than 10 grams of marijuana was decriminalized in Maryland in 2014.

Part II: Disposition below of State v. Lancaster

Lancaster was tried and convicted of 1 count of misdemeanor drug possession in the Circuit Court of Maryland for Johnson County⁹. Prior to trial, Lancaster filed a motion to suppress the marijuana on grounds that it was obtained in violation of his 4th Amendment rights. That motion was denied. Lancaster was sentenced to 1 year in jail, with all but two weeks suspended contingent upon his completion of a first-time offender program, and fined \$1,000.

Lancaster appealed his conviction (and specifically the denial of the motion to suppress) to the Maryland Court of Special Appeals. The Maryland Court of Special Appeals held that the seizure of Lancaster's vehicle violated Lancaster's 4th Amendment rights and overturned his conviction. The State of Maryland sought review of that decision by the Maryland Court of Appeals. The Maryland Court of Appeals affirmed the decision of the Maryland Court of Special Appeals. The State of Maryland filed a petition for writ of certiorari in the Supreme Court. The Supreme Court granted that petition and certified the following question for argument:

- **Did the seizure of Respondent Lancaster's vehicle violate Lancaster's 4th Amendment rights?**¹⁰

Part III: Facts related only to Williams v. Chadwick

Following Lancaster's arrest, many students, and others, used social media to comment on the event and the circumstances that proceeded it. Micha Bell ("Bell"), a 16-year-old junior at Pratt High and President of the Pratt Black Students Union (BSU) posted on Facebook a call for all African-American students at Pratt, and those that supported them, to walk out of their second period class on Wednesday November 3, 2016, and participate in a demonstration in front of the school in support of Lancaster. Bell's post stated:

Give me a break. Anthony wasn't suspended because he had weed. Anthony was suspended because he spoke the truth. Look around. See who gets suspended whenever there's a fight. See who gets detention for talking in class. See who gets stopped when they are walking the halls without a pass. It isn't two little white GT girls cutting class. They never get stopped. It's us. And that's not fair. 12 grams of weed!!! I could name 20 white students right now that I know, that I know the teachers know, that Chadwick knows, are carrying way more than that much weed in their backpack today in school. But they don't get picked on. This is unfair and I'm not going to take it anymore. Let's let everyone know-let the world know-we have had enough with unfair treatment. When the second period bell rings on the 3rd show the world what we are made of and walk out of class and meet us in front of the school.

As word spread of the proposed walk out, local media, teachers, and parents contacted Chadwick. On Tuesday November 2, Chadwick released a statement to local media regarding the proposed walk out.

⁹ Because Lancaster pled a jury trial, his case was heard in Circuit Court.

¹⁰ The Petition in State v. Lancaster relates only to the reasonableness of the initial seizure of Respondent's vehicle. All parties agree that if the initial seizure was unlawful, then the marijuana seized must be suppressed. Absent the marijuana, the state concedes it lacks sufficient evidence to prosecute Lancaster.

The statement was also read over the Pratt High public-address system during home room on November 2. Chadwick's statement included the following:

I know many people are upset over what happened at the football game a couple of weeks ago and other events. Let me say that I and the other members of the administrative team and our School Board would like to work with you to resolve these issues constructively. I understand your concerns, and, unfortunately, because of the privacy laws, I cannot discuss the specific facts of any student's case with you, but let me assure you that in the 10 years I have been principal here at Pratt there has not been a single instance I know of in which we as administrators treated students differently because of their race. I understand that some students may want to participate in a protest during school hours. Please be advised that if you leave school without a pass tomorrow to attend any kind of rally you will be cutting school and you will receive the appropriate punishment for that choice. I will be meeting this week with many student leaders to see how we can better understand the things we can all do to make our school a safe and positive learning environment.

Notwithstanding Chadwick's announcement, approximately 250 students walked out of school the next day during second period and participated in a rally held in front of the school. The rally featured speeches by Bell, Johnson, and a local attorney supportive of the statements made in Bell's post. Bell spoke last. At the conclusion of Bell's speech, he said "Principal Chadwick yesterday said she didn't know of anyone who had been treated unfairly here at Pratt. So, I just wanted to call on a few students to share their experiences." Bell then called up 2 current students and a 2015 graduate of Pratt who all briefly described incidents that, based upon the facts as related by the speakers, would tend to indicate that they had been treated differently by Pratt administrators due to their race. Each of these three speakers ended their remarks by saying "It's not fair". The crowd responded by shouting "It's not fair."

The former student who addressed the rally that day was Rebecca Williams ("Williams"). Williams was, in 2016, a 19-year-old sophomore at the University of Maryland at College Park. She had attended high school at Pratt High. She is African-American. Williams had not organized the rally. She had been active in the BSU when she was a student at Pratt. She learned about the rally by reading Bell's posts on social media and decided to attend. Prior to the rally, Bell saw Williams in the crowd, and went up to her and asked if she wanted to make a speech. Williams said, "I don't really want to make a speech, but I read what Chadwick said and I would like to just tell others what happened to me." Bell thanked her and told her he would call her up to speak at the end of the program. Williams agreed. Her complete statement was as follows:

Thank you, Micha. Thank you for organizing all this. And thank you for letting me share my experience. Hi everyone, I'm Becky. I went to Pratt. Graduated in 2015. When I was a freshman me and another girl had a disagreement. She was white. We yelled at each other in the hallway a little. There was no fight-we were just yelling at each other and we were both sent to see Principal Chadwick. I got suspended for 1 day and the other girl didn't get any punishment. And as I was sitting outside the office waiting to see the principal I heard Chadwick say to somebody in her office-and I will never forget this-that quote you didn't need to suspend white kids because they will listen to authority and control themselves, but you had to treat black kids

differently because they just don't listen to you unless you punish them. If you don't they will run wild end quote. I couldn't believe she said that. It explains a lot. That's not fair.¹¹

The rally was covered by local television stations, as well as the *Johnson Post*, the *Baltimore Sun*, and the *Washington Post*.¹² A brief story about it appeared on the national website *The Root* where it was viewed at least 100,000 times. Due to Lancaster's notoriety as an athlete, the story was also summarized on several national college football recruiting websites and mentioned in a longer story on high school athletes that was posted on the ESPN website. That story was viewed 1.2 million times.

Williams' name was used in only one in these stories—a single reference in the *Johnson Post* story that stated: "Pratt graduate Rebecca Williams also spoke at the rally." The 3 newspaper stories included statements to the effect that, in addition to Bell, 3 present or former students at Pratt had addressed the rally and had made claims of racial discrimination against Pratt administrators. None of the TV accounts of the rally included Williams' picture, her name, or an account of her specific remarks. There was no specific reference to Williams or her remarks in *The Root* or ESPN stories. Williams' image appeared in one photograph that accompanied the *Johnson Post* story. In that photograph, she is one of three individuals standing behind Bell on the speakers' platform. In the photograph, she and the other three individuals are raising their fists. The headline for the *Johnson Post* story is "Racial Bias Claimed at Pratt". Williams' image did not appear in any of the other news media accounts of the rally.

After the rally, Williams posted a version of her alleged encounter with Chadwick in substantially the same words she used at the rally with the hashtag "#Not fair." Evidence submitted at trial was that her post to this effect had been viewed over 30,000 times, and that hundreds of other students from Pratt High, and from around the nation, had submitted posts on various social media outlets with the hashtag "#notfair". These posts described allegedly discriminatory disciplinary treatment they had received in school. Williams' post was her only posting on social media that referred to any aspect of the controversies at Pratt High or its students, administrators, or staff.

Later in November, Williams appeared at an event sponsored by the local chapter of the NAACP. At the event she was introduced by Johnson as having been one of the speakers at the rally. Williams gave no remarks at the event. At the event, she voluntarily posed for a photograph with Johnson, Lancaster, Bell, and the two other students who spoke at the rally. In the picture, all 6 individuals are holding a sign that said "#not fair". A copy of this photograph appeared in Johnson County NAACP publications (electronic and print) in conjunction with stories about the Lancaster incident and allegations that school discipline in Maryland public schools was administered in racially discriminatory ways. At the event, Johnson summarized the content of the statement Williams made at the rally¹³, but Williams did not speak at the event.

In December of 2016, Williams was also asked by the Maryland State Department of Education (MSDE) to participate in a panel discussion on the topic of "Race and School Discipline: Where do we go from

¹¹ In pleadings filed in this matter and at trial, Chadwick has denied making the statements attributed to her by Williams.

¹² Each of three newspapers had a website where the electronic version of the newspaper appeared. The text of the stories that appeared in the electronic versions of the newspapers were identical to the accounts that appeared in printed versions of the newspapers.

¹³ She also summarized the substance of the comments of the other rally speakers.

Here?” MSDE asked Williams to participate because the organizer of the panel discussion saw, on line, the *Johnson Post* account of the rally that mentioned Williams’ name. Williams did not initiate contact with MSDE. Williams did agree to appear and participate on the panel. The panel discussion was presented at the MSDE offices in Baltimore. It was attended by approximately 25 persons including MSDE staff, two members of the Maryland State Board of Education, 2 attorneys from the Maryland Attorney General’s office, and several staff representing members of the Maryland General Assembly. Each of these persons identified themselves by name and affiliation at the beginning of the meeting.

Williams was the only student on the panel. The other panel members were a member of the State Board of Education, an attorney from the Maryland Attorney General’s Office and an MSDE staff member. In general, these speakers shared statistics regarding school discipline and student racial characteristics, reviewed past efforts to address the issue of discrimination in school discipline, and discussed various policy proposals for addressing that issue in the future.

Williams did not speak in the panel presentation until the moderator said “Becky, why don’t you share your story.” Williams then made comments substantially identical to those she made at the rally. Williams was asked one question by an audience member. The question was “Becky, we’ve heard your story, what do you think we should do to make sure that incidents like the one you describe don’t happen again?” Williams said “I don’t know. I’m just a student who was treated unfairly. I don’t really want to be a teacher or a lawyer or politician or anything like that. I’m actually in college hoping to be a pediatrician. I just wanted you to know what happened to me; what is happening to others. I guess my point would be that you can’t pretend this stuff isn’t happening. I hope that by people like me speaking out you will act to fix this. The people in this room are the ones that need to act-and act now.”

This panel discussion did not receive any “outside” news coverage. An account of the panel discussion did appear (in print and on line) in various MDSDE publications. All of these accounts were relatively brief (less than 700 words). All of the accounts stated words to the effect that a former Maryland public school student also spoke. None of the accounts specifically quoted Williams. Several of these accounts included a photograph of the panel. Williams image was visible in the picture and her name was listed in the caption to the picture.

In April of 2017, the Board announced that Chadwick would not be returning as principal of Pratt High after the 2016-2017 school year. The Board offered Chadwick the opportunity to continue to work in Johnson County Public Schools as a teacher, but stated that she would no longer be employed as a principal or assistant principal in the school system. Chadwick declined the offer to teach in the system and resigned, effective at the end of the school year.

In May of 2017, colleagues of Chadwick and members of the Pratt High Community organized a dinner to honor Chadwick for her service to Pratt High. There were approximately 150 people at the dinner. Chadwick spoke at the conclusion of the gathering. Among her remarks (which were recorded on video and posted to numerous websites following the dinner) was the following:

I certainly have some regrets, but my biggest regret is the way I have been portrayed as a racist. People who have no idea about the work I have done throughout my life-work on behalf of kids from all kinds of backgrounds. The many times-hundreds of times-I have helped out kids-black and white-when they have needed something-maybe something simple like a class change, or some money for lunch, or a chance to sit in my office to cool down so they didn’t get in trouble,

or a shoulder to cry on when things got too tough, or a call to a friend at a university to help get a kid into college; just a million times I have, without any publicity, helped kids and all that has been ruined because of what some bad kids said about me-kids like Becky Williams. All of you should know that Williams was lying when she said those things about me at the rally. It wasn't just her mistake or misunderstanding. She absolutely made that stuff up to try to divert attention from what Lancaster did and to get me fired-which it did. She always held a grudge against me. She intentionally made up those things she said I said just to hurt me. I don't know if she is a racist, or she had something else to hide, all I know is that it cost me my dream job.

In June of 2017, Williams sued Chadwick in the Circuit Court for Johnson County for defamation.

Part IV. Disposition below of Williams v. Chadwick

Following pretrial discovery, Chadwick's case was heard in the Circuit Court for Johnson County. The relevant facts produced at trial regarding the circumstances surrounding Williams' statement are set forth in the Record on Appeal herein. At the close of all the evidence, the trial court granted the defendant's motion for judgement and dismissed the plaintiff's case. In doing so, the trial court assumed, *arguendo*, that the Chadwick's statements could be considered defamatory, but held that because Williams was a "limited purpose public figure" pursuant to the Supreme Court's decisions interpreting the First Amendment, her claims had to be based on facts that would support a finding of actual malice on Chadwick's part, and that no such evidence had been presented. The Court noted in its ruling that if Williams were to be considered a "private figure", then the case, as a matter of law, would have proceeded to the jury.

The Maryland Court of Special Appeals reversed the decision of the Circuit Court and found, as a matter of law, Williams' activities did not render her to be a limited purpose public figure. The Maryland Court of Appeals, however, reversed the decision of the Maryland Court of Special Appeals and held that Williams, as a matter of law, was a limited purpose public figure with regard to Chadwick's statements and ordered judgment entered on Chadwick's behalf. Williams filed a petition for writ of certiorari with the Supreme Court of the United States seeking review of this ruling. The Supreme Court granted that petition and certified the following question for argument:

- **Did the activities of Petitioner Williams render her a limited purpose public figure for purposes of her claim of defamation?**¹⁴

In view of commonality of facts, the Supreme Court also ordered the cases of State v. Lancaster and Williams v. Chadwick consolidated for purposes of argument before the Court. The court further ordered that the order of argument before the court would proceed as follows:

1. Petitioner State of Maryland in the matter of State v. Lancaster
2. Petitioner Williams in the matter of Williams v. Chadwick
3. Respondent Lancaster in the matter of State v. Lancaster
4. Respondent Chadwick in the matter of Williams v. Chadwick

¹⁴ The Petition in Williams v. Chadwick relates only to the issue of whether Williams' activities rendered her a limited purpose public figure. Other issues, including whether Chadwick's statements were "defamatory" or whether the claims against Chadwick would be adequate to support a jury finding of actual malice are not the subject of this proceeding and should not be argued by counsel in this proceeding.

5. Rebuttal by counsel on behalf of Petitioners¹⁵

Lancaster Cases:

- *Whren v. United States*, 517 U.S. 806 (1996)-pretextual seizures of vehicles for moving violations applies to nonmoving violations
- *Johnson v. United States* 874 F. 3d 571 (the Cir 2017)-pretextual nonmoving violation was enough.
- *State v. Holmes* 569 N.W. 2d 181 (Minn. 1997)-a parking violation is not sufficient
- *In re Calvin S.* 175 Md. 516 (207)-a citable civil offense is not sufficient under the terry analysis for a Terry stop
- *Safford Unified School District v. Redding*, 557 U.S. 364 (2009)-4th Amendment in schools (student friendly)
- *New Jersey v. T. L. O.*, 469 U.S. 325 (1985)-4th Amendment in schools (school friendly)

Williams cases

- *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974) (public figure)
- *Wolston v. Reader's Digest Ass'n*, 443 U.S. 157, 167, (1979)
- *McKee v. Cosby* 875 F.3d 54 (1st Cir.2017)
- *Street v. Nat'l Broad. Co.*, 645 F.2d 1227, 1235 (6th Cir. 1981),
- *Foretich v. Capital Cities/ABC, Inc.* 37 F. 3d 1541 (4th Cir. 1994)
- *Straw v. Chase Revel, Inc.* 813F.2d 356 (11th Cir.)
- *In re IBP Confidential Business Documents Litig.*, 797 F. 2d 632 (8th Cir. 1986)
- *Long v. Cooper* 848 F. 2d 1202 (11th Cir. 1988)
- *Lundell MFG. Co. v. American Broad Cos.*, 98 F. 3d 351 (8th Cir. 1996)

¹⁵ As set forth in the Rules applicable to this argument, the rebuttal argument will be presented by only one attorney, but that attorney should be prepared to address questions regarding both of the consolidated cases.