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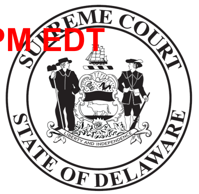

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT BOYLES,	)	
	)	
Defendant—Below,	)	
Appellant	)	
	)	
v.	)	No. 349, 2025
	)	
	)	
	)	
STATE OF DELAWARE	)	
	)	
Plaintiff—Below,	)	
Appellee.	)	

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE

APPELLANT'S REPLY BRIEF

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TABLE OF CONTENTS

TABLE OF CITATIONS ii

ARGUMENT:

I. THE TRIAL COURT ERRED AS A MATTER OF LAW WHEN IT RULED THAT 11 *DEL. C.* § 4321(d) AUTHORIZES PROBATION TO CONDUCT WARRANTLESS ADMINISTRATIVE SEARCHES OF A HOME 1

Conclusion 12

TABLE OF CITATIONS

Cases:

Chevron, U.S.A. v. Nat. Res. Def. Council, Inc., 467 U.S 837 (1984) 10

Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024)..............................11

Snyder v. Andrews, 708 A.2d 237 (Del. 1998)..7

State v. Barnes, 116 A.3d 8893 (Del. 2015) 7, 8

State v. Crooks, 2024 WL 5297956 (Del. Super. 2024)..................................9

State v. Crooks, 2025 WL 3034743 (Del. Super. 2025)..................................9

State v. Groce, 2024 WL 1463417 (Del. Super. 2024) 9

State v. Mariney, 2023 WL 11951339 (Del. Super. 2024)..............................9

State v. McCary, 2022 WL 2840047 (Del. Super. Ct. July 20, 2022).............9

State v. Stovall, 2024 WL 4891273 (Del. Super. Ct. Nov. 25, 2024) 9

State v. Young, 314 A.3d 688 (Del. Super. 2024) 6, 7, 9, 10

United States v. Title Ins. Co., 265 U.S. 472 (1924) 8

Statutes:

1 *Del. C.* § 302 1

1 *Del. C.* § 304 ....5, 6

1 *Del. C.* § 1953 6

4 *Del. C.* § 1101 4

11 *Del. C.* § 221 1

11 *Del. C.* § 223 5

11 *Del. C.* § 282 2

11 *Del. C.* § 787 ....2, 3

11 *Del. C.* § 1953 6

11 *Del. C.* § 2301 8

11 *Del. C.* § 4321 ....1, 3, 4

42 Del. Laws. Ch. 191 4

48 Del. Laws, Ch. 303 1

54 Del. Laws. Ch. 349 4

Other Sources:

Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/individual. Accessed 19 Mar. 2026 2

I. THE SUPERIOR COURT ERRED WHEN IT PROVIDED THE JURY AN IMPROPER AND UNNECESARILY COERCIVE ALLEN CHARGE.

The State in its Answering Brief serves a plate full of icing and a few crumbs of cake. As one example, the State goes on an elaborate legal labyrinth in an attempt to disprove that Section 4321(d) is unambiguous only to reach a dead end. The State posits that "Section 302's definitions apply 'unless the context requires a different meaning,' and that context, [], is search and seizure jurisprudence." Ans. Br. at 10. While the State correctly points out that the usage of "person" is certainly common, at the statutory level, it cites to a cluster of statutes localized within Chapter 23 of Title 11, which was broadly amended in 1962 to change instances of "house and place" to "house, place, conveyance or person."[1] One specific word choice selected during a particular set of revisions does not erase the meaning of a synonymous word.

Nothing about the usage of "person" reflects that "individual" is somehow unsuitable, requiring it to be excluded from the definition of person under 1 *Del. C.* Section 302. Under 11 *Del C.* Section 221, "Principles of Definitions", (c) states that "If a word used in this Criminal Code is not defined herein, it has its commonly accepted meaning, and may be defined as appropriate to fulfill the purposes of the

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[1] 48 Del. Laws, Ch. 303.

provision as declared in § 201 of this title." Merriam-Webster Dictionary defines the noun form of "individual" as:

> (1)(a): a particular being or thing as distinguished from a class, species, or collection: such as
> (1): a single human being as contrasted with a social group or institution
> (2): a single organism as distinguished from a group
> (1)(b): a particular person
> (2) an indivisible entity
> (3) the reference of a name or variable of the lowest logical type in calculus.[2]

This common definition of individual is delineated with great particularity and cannot accommodate the meaning that the State proposes. Moreover, the General Assembly has repeatedly referred to "individuals" in criminal law alongside "person" in a manner that indicates they are functionally synonymous. See, e.g. 11 *Del. C.* Section 282:

> **§ 282. Criminal liability of an individual for organizational conduct.**
> A person is criminally liable for conduct constituting an offense which the person performs or causes to be performed in the name of or in behalf of an organization to the same extent as if the conduct were performed in the person's own name or behalf.

Likewise, when prohibiting human trafficking in 11 *Del. C.* Sec. 787, in a statute greatly concerned with specific forms conduct involving physical coercion

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[2] "Individual." Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/individual. Accessed 19 Mar. 2026.

and control of victims, the General Assembly once again freely intermixed the usage of "individual" and "person".[3] On one hand, Sec. 787(a)(28) defines victim, in relevant part, as "a person who is subjected to the practices set forth in subsection (b) of this section", whereas Sec. 787(b)(1) then states:

> "(1) *Trafficking an individual.* — A person is guilty of trafficking an individual if the person knowingly recruits, transports, harbors, receives, provides, obtains, isolates, maintains, advertises, solicits, or entices an individual in furtherance of forced labor in violation of paragraph (b)(2) of this section or sexual servitude in violation of paragraph (b)(3) of this section. Trafficking an individual is a class C felony unless the individual is a minor, in which case it is a class B felony."

Ergo, the crime is committed against an "individual", but the statute also identifies the victim against whom the crime is committed as a "person". This is easy to understand; the words mean the same thing.

This pattern has persisted over decades of relevant legislation. In 1964, just two years after the State would argue that the General Assembly's 11 *Del. C.* Ch. 23 revisions seized upon "person" as a term to be distinguished from "individual", the General Assembly revised statutes governing Probation and Parole and relocated the duties of "Probation and Parole Counselors" to 11 *Del. C.* Section 4321 for the first time, crafting new language that stated, in part:

> The Counselors, under the supervision of the Department, shall prepare an evaluation and plan of treatment aimed at

[3] 11 *Del. C.* Sec. 787.

> alleviation of those conditions which brought about the criminal behavior of each of his charges, and shall attempt in each case to effect a satisfactory adjustment between the **individual** and his needs and the demands of society. The Counselors shall keep informed of the conduct and condition of **persons** in their charge, shall aid them to secure employment, shall exercise supervision over them, and see that they fulfill the conditions of their release, and shall use all suitable methods to aid and encourage them to bring about improvement in their conduct and conditions and to meet their probation or parole obligations.[4]

Thus, 11 *Del. C.* Sec. 4321, the very statute at issue, reflects a sixty-two-year history of synonymous usage of person and individual. Stepping further into the historical usage of these words in a search and seizure context, a 1939 amendment of Delaware's liquor laws[5] used the words interchangeably, alternately referring to "a person personally exhibiting at the time of such purchase his or her license to purchase a stock of alcoholic liquor for personal use"[6] and "an individual, the holder of a license to purchase a stock of alcoholic liquor for personal use, who having said license then with him or her, is personally transporting for his or her own personal use any alcoholic liquor in any quantity."[7] The interchangeability of "person" and "individual" is still reflected in the present form of those laws, 4 *Del. C.* Ch. 11.

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[4] 54 Del. Laws. Ch. 349 Sec. 7 (emphasis added).
[5] 42 Del. Laws. Ch. 191.
[6] *Id.*
[7] *Id.*

The State also fails to credibly create a distinction in its claim that "searches of individuals" cannot simply refer to a single person because there are a plural number of searches involved. Ans. Br. at 13, fn. 32. This is a baffling contention, which appears to have failed to conceive of the fact that a single individual may be subject to multiple searches over a period of time, such as a term of probation. This effort to sift singular and plural forms in search of meaning also runs afoul of the basic statutory construction rule in 11 *Del. C.* Sec. 223, "Words of gender or number", which states that:

> Unless the context otherwise requires, words denoting the singular number may, and where necessary shall, be construed as denoting the plural number, and words denoting the plural number may, and where necessary shall, be construed as denoting the singular number, and words denoting the masculine gender may, and where necessary shall, be construed as denoting the feminine gender or the neuter gender.

This longstanding statutory construction is also found in 1 *Del. C.* Sec. 304, "Words of number and gender", which also states that:

> (a) Words used in the singular number include the plural and the plural includes the singular.
> (b) Words importing the masculine gender include the feminine as well, except as otherwise clearly indicated by the context.
> (c) All forms prescribed by law may be varied according to subsections (a) and (b) of this section.

These two statutes have been part of the code during all pertinent revisions at issue in this matter.[8] Were the logical defects not sufficient to put the State's contention to rest, legislatively enacted rules of statutory construction would suffice.

Perhaps the State's most dubious argument of all is its claim that the Superior Court's rationale in *Young* and Boyles' reading of Section 4321(d) "is in tension with itself". Ans. Br. at 15. It is astonishing that the State takes the position that "[i]t cannot reasonably be maintained that the legislature uses specific nomenclature in the search and seizure context to authorize searches of 'homes,' while at the same time that its use of 'individuals' rather than the search-and-seizure specific "persons" was without significance. Ans. Br. at 15-16. However, the State fails to recognize that any potential tension disappears if "individual" and "person" are synonymous. Yet, the inclusion of a different category of article in "homes" obviously requires a distinct authorization, especially given privacy interests centered around the home.

The State's celebration of the word "person" in the Delaware Code[9] does not engage with the repeated statutory usage of "individuals", and thus, it arrives at no better meaning for "individuals" than "something different than the physical body of a probationer". Ans. Br. at 14. This is a tortured proposition, neglecting crucial information, which cannot support the idea that "individuals" is "readily susceptible

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[8] See 1 *Del. C.* 1953, § 304; 11 *Del. C.* 1953, § 223.
[9] Ans. Br. at 10–14.

of different conclusions or interpretations".[10] Nor can the State sustain the premise that it would be "unreasonable or absurd"[11] for the legislature to have intended the meaning for "individuals" that it has often used interchangeably with "persons".[12] Consequently, it must be recognized that the plain language of the statute does not authorize the search of probationers' homes. The "short route" that the State offers this Court in support of those searches is a road to nowhere. Ans. Br. at 9.

Likely sensing it could be effective, the State cites language from this Court's decision in *State v. Barnes*[13] in arguing that *stare decisis* should provide shielding for statutes that would otherwise be vulnerable to challenges simply predicated on the fact that they have been undisturbed for so long. Ans. Br. 16-17. This logic fails on multiple levels. First off, as reflected in Boyles Opening Brief, there is a sweeping lack of consistency in prior decisions on this issue. See Op. Br. Ex. B., fn. 2. Secondly, legal complacency would serve to preclude issues of first impression to this Court. Finally, simply because a statue is not challenged at the outset, or for a significant period of time, does not render it free from fatality. Appellate review evolves and is fluid.

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[10] *State v. Young*, 314 A.3d 688, 694 (Del. Super. 2024) (quoting *Snyder v. Andrews*, 708 A.2d 237, 241 (Del. 1998).
[11] *Id.*
[12] See *supra*. at 2–4.
[13] 116 A.3d 8893, 890-91 (Del. 2015).

Moreover, in trying to trivialize Boyles' argument that *stare decisis* "is rooted in matters of public reliance, not State intrusion," the State takes aim that Boyles makes this assertion without supportive citation. Ans. Br. at 18. However, the State fails to align any supportive legal authority in making the same inverse argument. Boyles' argument about *stare decisis* in reference to *Barnes*[14] is rooted in that case's own description of the doctrine.[15] In contrast, State intrusion, in the form of searches, is regulated by 11 *Del. C.* Sec. 2301, which bars searches that are not conducted "pursuant to statute or the Constitution of the United States." Judicial acquiescence to a statutorily unauthorized law enforcement practice does not supersede such a clear and specific limit on search authority.

Notably, the State concedes to Boyles position that none of this Court's prior decisions addressed the specific argument concerning the definition of "individual." Ans. Br. at 18-19. Thus, making it ripe for review and clarification.

The State's Answering Brief makes the claim that Boyles' position has been previously presented to various Superior Court Judges through "judge-shopping" with the hope of yielding a different result. Ans. Br. at 20. The State boldly goes one step further in arguing that the litigants in these cases must not believe that the

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[14] Op. Br. at 15 (citing *State v. Barnes*, 116 A.3d 883 (Del. 2015)).
[15] *Barnes* at 891, fn. 40 (citing *United States v. Title Ins. Co.*, 265 U.S. 472, 485 (1924): "(noting the importance of citizens' ability to rely on settled law, and the court's inclination to avoid causing 'injurious results' to those who have relied on that law in the event that the court alters it)").

Court's ruling is legally erroneous because they have remained unchallenged for several years and none have been appealed which would have been the proper course of action. *Id*., fn. 56. This argument is preposterous and misleading. The reality here is that we are talking about cases that featured both new charges and VOPs, and with that leverage against the defendants, the defendants in the relevant cases uniformly reached plea agreements before trial, which is reflect in relevant caselaw, dockets, and sentencing orders.[16] Moreover, the majority of these cases reflect pending Violation of Probation allegations that resolved contemporaneously or shortly after the plea agreement as to the pending charges, as reflected in relevant

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[16] See *State v. Crooks*, 2024 WL 5297956 (Del. Super. 2024); *State v. Crooks*, 2025 WL 3034743 at *1 (Del. Super. 2025)("Crooks pled guilty on April 21, 2025, the day his case was set for trial, to one (1) count of Possession of a Firearm by a Person Prohibited, one (1) count of Possession of Ammunition by a Person Prohibited, one (1) count of Tier 1 Possession of Marijuana, one (1) count of Reckless Endangering Second Degree, and one (1) count of Resisting Arrest.")(See also AR93–105); *State v. Mariney*, 2023 WL 11951339 at *3 (Del. Super. 2024)("On June 21, 2022, Mariney pled guilty to one count of PFBPP in Case No. 2008012017 and one count of Drug Dealing in Case No. 2204003380")(See also AR21–34); *State v. Groce*, 2024 WL 1463417 (Del. Super. 2024)(See also AR58–70); *State v. Stovall*, 2024 WL 4891273, at *1 (Del. Super. Ct. Nov. 25, 2024)("On July 23, 2023, this Court sentenced Stovall to Possession of a Firearm by a Person Prohibited, Possession of Ammunition by a Person Prohibited and Controlled Substances. The sentence was imposed pursuant to a Plea Agreement between the State and Stovall and was signed by Stovall")(See also AR43–53); *State v. McCary*, 2022 WL 2840047, at *1 (Del. Super. Ct. July 20, 2022)("On August 16, 2021, after an appropriate colloquy, Defendant pled guilty to PFDCF and Drug Dealing Heroin Tier 2")(See also AR1–20); *State v. Young*, 314 A.3d 688 (Del. Super. 2024)(See also AR82–92).

dockets and sentencing orders.[17] Our clients' expressed interests rarely rate the correction of legal error as their highest priority, especially as when pretrial litigation offers subsequent opportunity for plea bargaining that may deliver a more direct, concrete impact on their fate. In contrast with the State's contention, it is far more pertinent, and far less incidental, to say that the issue in the present case has evaded direct appeal because the State has repeatedly bargained for that outcome.

In pressing its "*stare decisis*" argument, the State relies heavily on the analysis supplied by the Superior Court in *Young*. Ans. Br. at 20. More specifically, the State, like the Court in *Young*, advances the position that "the DOC, an agency charged with interpreting Section 4321(d), was a 'repeat player in the criminal justice system' and has interpreted Section 4321(d) to allow for the search of probationer's homes". Ans. Br. at 21. This contention is predicated on the proposition that courts should defer to agency interpretation of a statute that it administers, commonly referred to as "Chevron deference". *Chevron, U.S.A. v. Nat. Res. Def. Council, Inc.*, 467 U.S 837, 844 (1984). However, the fatal flaw in this

[17] See *State v. Mariney*, 1808010415 (AR35–42)(reflecting same-day disposition of VOP and discharge from probation on the VOP); *State v. Stovall*, 2010003638 (AR54–57)(reflecting same-day disposition of the VOP and discharge from probation on the VOP); *State v. Groce*, 1702005467 (AR71–81)(reflecting VOP disposition two days after guilty plea, with the Level 4 sentencing order stating "ALL SENTENCES OF CONFINEMENT SHALL RUN CONCURRENT" at AR76, relating to negotiated position on concurrent sentencing in 2308015527 at C68); *State v. Crooks*, 1908018326 (AR106–113)(reflecting VOP resolution on day of sentencing after plea bargain).

argument rests in the recent United States Supreme Court decision of *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). The high court overruled *Chevron* and held that courts are no longer required to defer to agency interpretation of ambiguous statutes. Rather, courts are now instructed to utilize normal rules of statutory interpretation to determine the ambiguity themselves. *Id.* at 400-401.

CONCLUSION

For the reasons and upon the authorities cited herein, the undersigned counsel respectfully submits that Robert Boyles' convictions and sentences must be reversed.

Respectfully submitted,

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