

SEX OFFENDER REGISTRY – “KNOWINGLY” FAIL TO REGISTER – MD. CODE ANN., CRIM. PROC. (2001, 2025 REPL VOL.) § 11-721(a) – Supreme Court of Maryland held that forgetting to register is not valid defense to charge of knowingly failing to register under Md. Code Ann., Crim. Proc. (2001, 2025 Repl. Vol.) (“CP”) § 11-721(a). Generally, to establish violation of CP § 11-721(a), State need only prove that person had notice of duty or obligation to register and failed to do so. Such proof is sufficient to establish that person who fails to register “knowingly” failed to do so. However, evidence of involuntarily induced medically diagnosed condition, such as Alzheimer’s disease, dementia, or other condition, that results in memory or cognitive deficiencies that deprive person of ability to act with knowledge, awareness, or consciousness of person’s obligations under Maryland Sex Offender Registration Act may serve as defense to charge of knowing failure to register. Condition that merely affects memory or makes it more difficult to remember is not sufficient. In addition, lack of notice of obligation to register or impossibility, *i.e.*, uncontrollable external circumstances that prevent compliance, such as being hospitalized, may serve as defense.

Supreme Court concluded that trial court did not err in finding there is distinction between forgetting to register and lacking knowledge of obligation to register, and in determining that forgetting to register is not valid defense to charge of knowingly failing to register under CP § 11-721(a).

Circuit Court for Charles County
Case No. C-08-CR-23-000605

Argued: September 4, 2026

IN THE SUPREME COURT
OF MARYLAND

No. 5

September Term, 2026

ANDRE HAMMOND

v.

STATE OF MARYLAND

Fader, C.J.
Watts
Booth
Biran
Gould
Eaves
Killough,

JJ.

Opinion by Watts, J.

Filed: October 26, 2026

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Gregory Hilton, Clerk

The Maryland Sex Offender Registration Act (“MSORA”), Md. Code Ann., Crim. Proc. (2001, 2025 Repl. Vol.) (“CP”) §§ 11-701 to 11-727, requires that people who are convicted of certain sex offenses “register with the person’s supervising authority[.]” CP § 11-704(a).¹ This is colloquially referred to as the requirement to register as a sex offender. Generally, when a person who is required to register is not incarcerated, the supervising authority will be the local law enforcement unit in the jurisdiction in which the person lives. See CP § 11-701(n)(8).² When a person who is required to register fails to do so, the person may be charged with and convicted of the offense of knowingly failing to register under CP § 11-721.

This case concerns such a conviction. In this case, at trial, Andre Hammond, Petitioner, a person who incontestably has been convicted of a sex offense and is required

¹The Maryland Department of Public Safety and Correctional Services (“the Department”) is required to “keep a central registry of registrants and a listing of juvenile sex offenders[.]” CP § 11-713(2). Registrants are required to periodically file registration statements containing information about themselves, such as their contact information, employment and school details, and information about their physical appearance. See CP § 11-706(a).

²Depending on a person’s status, the designated supervising authority may vary. For example, the Director of Parole and Probation is the supervising authority for individuals who are required to register and are under the supervision of the Division of Parole and Probation, see CP § 11-701(n)(9), and the Secretary of the Department is the supervising authority for individuals who are in Maryland under the terms and conditions of the Interstate Compact for Adult Offender Supervision, *i.e.*, who are offenders who move into Maryland from another jurisdiction and are required to register, see CP § 11-701(n)(7). Under the Code of Maryland Regulations (“COMAR”), Title 12, Department of Public Safety and Correctional Services, Subtitle 6, Sex Offender Registration, Chapter 1, Administration of Sex Offender Registration, the Secretary of the Department “may delegate the Secretary’s duties as a supervising authority to an agency of the Department or a local law enforcement unit[.]” COMAR 12.06.01.06A. COMAR 12.06.01.07A provides a list of local law enforcement units designated by resolution of each county governing body to serve as supervising authorities.

to register in Maryland with a supervising authority, asserted the defense that he forgot to do so. As a matter of first impression, we must determine whether forgetting to register can serve as a valid defense against the charge of knowingly failing to register in violation of CP § 11-721.

Mr. Hammond was convicted of sex offenses in the District of Columbia that required him to register as a Tier I sex offender when he moved to Maryland. Pursuant to CP § 11-707(a), when someone has been convicted of a sexual offense that requires registration, the person is required by law to register in person every three or six months depending on what tier of registration the person's conviction mandates during the term of the person's registration requirement. As a Tier I sex offender, Mr. Hammond was required to register in person every six months.

In February 2023, Mr. Hammond registered in Charles County, Maryland. At that time, Mr. Hammond was given notice that he was required to register next in person in Charles County on August 1, 2023. Mr. Hammond failed to register as required on August 1, 2023. Mr. Hammond was subsequently indicted in the Circuit Court for Charles County with the offense of knowingly failing to register in violation of CP § 11-721.

At trial, Mr. Hammond testified that he “forgot” to register due to circumstances involving depression and the deaths of multiple family members. The State of Maryland, Respondent, contended that forgetting cannot serve as a valid defense to the charge of “knowingly” failing to register under CP § 11-721(a). The circuit court rejected Mr. Hammond's defense and found that it was undisputed that Mr. Hammond knew he had to register and did not do so. The circuit court explained that there is a distinction between

not knowing and forgetting, and that “I forgot doesn’t mean you didn’t know[.]” The circuit court found Mr. Hammond guilty of knowingly failing to register as a sex offender, and imposed a suspended sentence with a period of probation.

Mr. Hammond appealed. In a reported opinion, the Appellate Court of Maryland affirmed the circuit court’s judgment. See Hammond v. State, 268 Md. App. 477, 483, 351 A.3d 62, 65 (2026). The Appellate Court concluded that the evidence at trial “established that Mr. Hammond was on notice of his duty to register” and that he “‘knowingly’ failed to register under CP § 11-721(a).” Id. at 507, 351 A.3d at 79. The Appellate Court considered the definition of the word “knowingly,” its treatment by courts in other jurisdictions with similar statutes, and the purpose of MSORA. See id. at 491-501, 351 A.3d at 70-75. The Appellate Court concluded that: (1) prior notice of the obligation to register is sufficient to establish the knowledge required for conviction of knowingly failing to register; (2) the *mens rea* necessary for conviction of knowingly failing to register under CP § 11-721(a) is not negated by forgetting; and (3) mitigation at sentencing can be appropriate relief where extenuating circumstances impede a person from fulfilling the obligation to register. See id. at 507, 351 A.3d at 79. The Appellate Court stated that to hold that “I forgot” is a complete defense for knowingly failing to register would “eviscerate the entire purpose of the registration statute.” Id. at 507, 351 A.3d at 79.

Mr. Hammond filed in this Court a petition for writ of *certiorari*, which we granted. See Hammond v. State, 494 Md. 174, 357 A.3d 780 (2026).

In this Court, Mr. Hammond contends that the word “knowingly” as used in CP § 11-721(a) requires that a registrant’s knowledge of the duty to register be contemporaneous

with the failure to register and that where a person has forgotten the obligation to register, that requirement is not met. The State counters that, as both the circuit court and Appellate Court found, the “knowingly” element of the failure to register offense is satisfied where evidence demonstrates that a person had notice of the obligation to register and failed to do so. The State asserts that, even if this Court were to conclude that forgetfulness can negate the *mens rea* necessary for a conviction under CP § 11-721(a), the case should be remanded to the circuit court because, according to the State, the circuit court did not make a finding that Mr. Hammond genuinely forgot to register.

We hold that forgetting is not a valid defense to the charge of knowingly failing to register under CP § 11-721(a). Generally, to establish a violation of CP § 11-721(a), the State need only prove that a person had notice of the duty or obligation to register and failed to do so. Such proof is sufficient to establish that a person who fails to register “knowingly” failed to do so. We conclude, however, that evidence of an involuntarily induced medically diagnosed condition, such as late stage Alzheimer’s disease, late stage dementia, or other medical condition, that results in memory or cognitive deficiencies that deprive an individual of the ability to act with knowledge, awareness, or consciousness of the individual’s obligations under MSORA may serve as a defense to the charge of knowingly failing to register. A condition that merely affects memory or makes it more difficult to remember is not sufficient. Ordinarily, evidence of such a medical condition would be the subject of expert evidence to establish the condition and resulting memory deficit depriving the individual of the ability to act with knowledge, awareness, or consciousness of the person’s obligation. In addition, we conclude that a lack of notice of

the obligation to register or impossibility, *i.e.*, uncontrollable external circumstances that prevent compliance with the obligation, such as being unexpectedly hospitalized, may serve as a defense.

BACKGROUND

On August 26, 2009, and February 6, 2018, Mr. Hammond was convicted of misdemeanor sexual abuse and second-degree child sexual abuse under Sections 22-3006 and 22-3009 of the D.C. Code, respectively, in the District of Columbia. Beginning in 2009, Mr. Hammond was required to register as a sex offender and over the years registered in five different jurisdictions—the District of Columbia; Falls Church, Virginia; Arlington, Virginia; Prince George’s County, Maryland; and Charles County, Maryland. In June 2016, Mr. Hammond pleaded guilty in the United States District Court for the District of Columbia to failing to register as a sex offender.

When Mr. Hammond moved to Maryland, he was classified as a Tier I sex offender and required to report to the appropriate supervising authority and register every six months. Initially, Mr. Hammond lived with his sister in Prince George’s County. In December 2022, Mr. Hammond and his sister moved from Prince George’s County to Charles County. On February 9, 2023, Mr. Hammond registered for the first time in Charles County. When Mr. Hammond registered in February 2023, he received written notice that he would need to register again on August 1, 2023, and that his registration would expire on August 9, 2023.

On August 1, 2023, Mr. Hammond failed to register. On August 14, 2023, Mr. Hammond was charged in the District Court of Maryland for Charles County with

knowingly failing to register as a Tier I sex offender in violation of CP § 11-721 and an arrest warrant was issued. On September 8, 2023, Mr. Hammond was indicted in the circuit court for knowingly failing to register in violation of CP § 11-721. Mr. Hammond waived his right to a jury trial and elected to have a bench trial.

Bench Trial

At a bench trial conducted on April 30, 2024, as the sole witness for the State, Detective Nina Garner of the Criminal Investigations Division, Special Victims Unit, of the Charles County Sheriff's Office, testified that, at the time of trial, she had been assigned to the Division for approximately six years and that her job duties included managing the sex offender registry in Charles County. On direct examination, Detective Garner testified that it was her responsibility "to register the offenders, make sure that they remain compliant; and if they don't, charge them." When asked what usually occurs during a registration meeting, Detective Garner described the process in Charles County as one that includes providing a person who is registering with a "requirements form" that sets forth the next scheduled registration date and time. Detective Garner testified as follows:

[T]hey'll come in to an office downstairs in the lobby and they'll sit across from me. I take their photograph, which is updated later into a database. . . . Their registration form which has all their demographic, conviction information, offense date, address, employment, vehicles, Internet identifier, social media accounts, Email addresses, everything that they're required to report to the registry is on that form. They go over the form, attest that it's true and accurate. They'll sign and date the front page. If they have any changes, obviously we make those, and that is written on the form. Like I said, once they verify that everything is true and accurate, they sign and date and then I also write my name and date. . . . They initial and date, I initial and date, right there together. The last page is a requirements form, which is an outline of all the requirements through the State sex offender registry that they are required to abide by[.] . . . And then it also has their next scheduled

registration date and time.

(Paragraph breaks omitted). Detective Garner testified that, in addition to information about the next scheduled registration date and time, the requirements form contains her contact information, including her email address, phone number, and name, and the address for the Sheriff's Office where registrations take place.

Detective Garner testified that, in Charles County, registrations typically occur "on the first and third Tuesday of every month[.]" According to Detective Garner, if a registrant needs to reschedule a registration appointment, the registrant can contact her by phone or email. In such a situation, the registration date would be rescheduled for a later time.

Detective Garner testified that, on February 9, 2023, Mr. Hammond registered in Charles County. Detective Garner testified that Mr. Hammond registered as a Tier I sex offender and was required to register every six months for a term of either 10 or 15 years. Detective Garner testified that the requirements form that both she and Mr. Hammond signed on February 9, 2023, stated that his next registration date was August 1, 2023.³ The circuit court admitted into evidence as State's Exhibit 3 a form titled "Department of Public Safety & Correctional Services Maryland Online Sex Offender Registration[.]" the last two pages of which is a form titled "Notice of Sexual Offender Registration Requirements[.]"

³Detective Garner testified that August 9, 2023, was the date falling six months after February 9, 2023, and was the expiration date for Mr. Hammond's registration. Detective Garner explained that because in Charles County registration dates are scheduled for the first and third Tuesdays in a month, Mr. Hammond's registration appointment was scheduled for the first Tuesday of the month of August 2023, which was August 1.

On the requirements form, the date “8/1/2023” and time “0810” are written in the spaces for “Scheduled Registration Date” and “Time.” The requirements form is signed by both Mr. Hammond and Detective Garner and dated February 9, 2023.

Detective Garner testified that Mr. Hammond “failed to show” for registration on August 1, 2023, and that she did not receive any calls or emails from him that day.

Detective Garner testified that she filed a warrant for Mr. Hammond’s arrest two weeks after he missed the August 1, 2023 registration appointment, during which time she had received no communication from him. Detective Garner testified that she did not hear from Mr. Hammond until he called her after the warrant had been issued. Detective Garner testified that, during the call, Mr. Hammond was upset and wanted the warrant recalled, and that she advised him to contact an attorney.

On cross-examination, Detective Garner testified that, on August 16, 2023, after the warrant had been issued, Mr. Hammond called and emailed her, telling her that the registration date had “slipped his mind” and that he had deaths in the family and mental health issues. The following colloquy occurred with respect to Detective Garner’s interactions with Mr. Hammond on August 16, 2023:

[DEFENSE COUNSEL:] So he called at around 3:11, 3:13, and then sent an Email at 5, around 5?

[DETECTIVE GARNER:] Yes.

[DEFENSE COUNSEL:] On the 16th?

[DETECTIVE GARNER:] Yes.

[DEFENSE COUNSEL:] When he found out he had that warrant?

[DETECTIVE GARNER:] Yes.

[DEFENSE COUNSEL:] And he informed you that he had all those deaths in the family?

[DETECTIVE GARNER:] Yes.

[DEFENSE COUNSEL:] And his mental health, he was mentally drained at that point, correct?

[DETECTIVE GARNER:] I can't attest to his mental status, but --

[DEFENSE COUNSEL:] Okay, but he's telling you that, literally?

[DETECTIVE GARNER:] He, he's saying he had a death in the family and mental health, yes.

[DEFENSE COUNSEL:] And he's pleading to register, to reschedule the registration?

* * *

[DETECTIVE GARNER:] Yes, he want[ed] to come in to register.

On cross-examination, Detective Garner testified that she did not know that in other jurisdictions reminders of registration dates are sent by certified mail, and that neither she nor her assistant sent Mr. Hammond a "courtesy reminder" of his registration date. Detective Garner testified that Mr. Hammond's registration "date was highlighted and provided to him on his requirements form." Detective Garner testified that she was unaware of any attempt by Mr. Hammond to register before the warrant had been issued, and stated that, if he had come to the Sherriff's Office after the warrant was issued, he would have been arrested.

As a witness for the defense, Elizabeth Holt, Mr. Hammond's sister, testified that Mr. Hammond resides with her and her husband in Charles County. Ms. Holt testified that,

before moving to Charles County, Mr. Hammond had lived with her in Prince George's County. According to Ms. Holt, when they lived in Prince George's County, detectives would call when Mr. Hammond "had to register and remind him of his registration." Ms. Holt testified that when they moved to Charles County, Mr. Hammond changed his registration to Charles County and that no one from the Charles County Sheriff's office came to her house to verify Mr. Hammond's address or discuss his living arrangements.

Ms. Holt testified that Mr. Hammond "suffer[s] from depression" and that he has been getting treatment for it for "several years[.]" Ms. Holt testified that, between February 2023 and August 2023, her stepfather died, and a cousin, with whom she and Mr. Hammond were "more like sisters and brothers than cousins[,]" died by suicide. Ms. Holt explained that their cousin died on July 17, 2023, and the funeral was on August 1, 2023. Ms. Holt testified that Mr. Hammond was "distraught" by their cousin's death, "crying, not eating, not sleeping well."

According to Ms. Holt, between June 2023 and August 1, 2023, there were eight deaths in the family and Mr. Hammond handled them "[p]retty bad." Ms. Holt testified that Mr. Hammond's "medication had to be adjusted" and that he had difficulty sleeping. Ms. Holt testified that, during that time, Mr. Hammond's "state of mind just wasn't there."

Ms. Holt testified that when detectives came to her house to serve the warrant, Mr. Hammond was at work, so she told him about the warrant when he came home. According to Ms. Holt, upon learning of the warrant for his arrest, Mr. Hammond "was distraught" that "he forgot[,]" and "was so upset, he said oh, my God, I can't believe I forgot, oh, my God, let me call the lady, let me call the lady." Ms. Holt testified that Mr. Hammond called

and emailed Detective Garner, who was “nonchalant” and told him to get a lawyer.

According to Ms. Holt, Mr. Hammond went and attempted to register but was turned away. When asked about Mr. Hammond’s previous failure to register in 2016, Ms. Holt stated that occurred because “[p]eople literally w[ere] trying to kill [him]” and indicated that it was a result of his name being seen on a sex offender registry.

On his own behalf, Mr. Hammond testified that he had registered in four different locations before registering in Charles County and that he understands the importance of registering and following applicable policies. Mr. Hammond acknowledged that he was required to register in August of 2023 in Charles County. Mr. Hammond’s counsel asked him what happened, and Mr. Hammond testified: “I forgot.” When asked “[w]hat was going on in [his] life around August 2023 that caused [him] to forget[,]” the following colloquy occurred:

[MR. HAMMOND:] I was severely going through mental health problems of depression that I was dealing with family deaths, step-father, two murder cases of my two nephews, two murder cases of my cousin, then another cousin that was dealing with mental health committed suicide that I was close to very dearly, so.

[DEFENSE COUNSEL:] So I’m not going to go into detail about that because I saw you all get emotional when you go into detail, but you were close with the cousin that [died by] suicide, correct?

[MR. HAMMOND:] I was very close, she was like a second mom.

[DEFENSE COUNSEL:] And to reiterate, she was laid to rest on August 1st?

[MR. HAMMOND:] Yes, she was.

[DEFENSE COUNSEL:] At what point did you remember to register?

[MR. HAMMOND:] I don’t recall.

Mr. Hammond testified that after his sister told him the “police came to the house[.]” he started to take “drastic measures[.]” which included contacting the detective (the officer who came to the house) who told him what the warrant was about and advised him to contact Detective Garner. Mr. Hammond testified that, after he learned of the warrant, he called Detective Garner and “advised her [of] stuff [he] was going through with family and [his] mental health and tr[ie]d to make an appointment to register on the registry.” According to Mr. Hammond, Detective Garner was not “receptive” to the phone conversation and hung up on him; so, he sent her an email.

The circuit court admitted into evidence as Defense Exhibit 3 an email from Mr. Hammond to Detective Garner dated August 16, 2023, at 5:12 p.m., in which Mr. Hammond stated:

This Andre Hammond I would like to setup a appointment to Update or re register. Again I had death in my family that I have proof of, my mental health was not a good and honestly it slipped my mind. I was going call you today to make to see you but received the warrant. It was a human error I been going thru a lot physically and mentally and been grieving, I hope we can resolve this matter in the spirit of understanding, and second chances.

I have no new changes of my registry all information is still the same. Also I do apologize for my mental health breakdown on the phone with you. Just was shocked and going thru a lot of depression.

Please let me know a date I can come in to register also I will be going in tomorrow to the courts to try to resolve. Thanks again[.]

Mr. Hammond testified that he did not receive a reply to the email; so, he contacted his probation officer and the Charles County State’s Attorney’s Office.

Mr. Hammond testified that, in the District of Columbia, Alexandria and Fairfax in

Virginia, and Prince George's County, he had been sent a letter advising him that his registration date or anniversary was coming up and that he could register either in person or by mail. According to Mr. Hammond, Prince George's County both sent a letter and called.

Mr. Hammond testified that, in 2016, he failed to register in the District of Columbia "[b]ecause [he] was being shot at and being threatened by [his] child's mother's fiancée [sic]." According to Mr. Hammond, he asked that his registration in Prince George's County and the District of Columbia be shielded because he was "in fear for [his] life."

With respect to his initial registration in Charles County, Mr. Hammond testified that he had an appointment for February 8, 2023, but that he called Detective Garner on that date because his stepfather had "just passed away and [he] wanted to reschedule [his] registration date." Mr. Hammond testified that Detective Garner told him to come in the next day.⁴

When asked again by his attorney to explain what happened in August of 2023, Mr. Hammond testified: "I was mentally messed up and I end[ed] up forgetting to register, I was dealing with my own mental health issues on top of tons of death that was surrounding me." Mr. Hammond's attorney replied "[o]kay" and, unprompted, Mr. Hammond testified: "I forgot." Mr. Hammond testified that after he was arrested and released, he went to

⁴According to Mr. Hammond, the registration requirements form that he was given at his initial visit on February 9, 2023, differed from the one entered into evidence as State's Exhibit 3. Mr. Hammond testified that, among other things, Detective Garner refused to sign his copy of the form, and the registration expiration date on his copy is different than the August 9, 2023 date on State's Exhibit 3. Mr. Hammond did not dispute that the requirements form stated that his next registration date was August 1, 2023.

register and the Sheriff's Office "tried to refuse" him. According to Mr. Hammond, he stayed at the office until someone was sent out "to register [him]. [He] didn't leave."

On cross-examination, Mr. Hammond acknowledged that he did not contact Detective Garner until August 16, 2023. On redirect, Mr. Hammond stated that the reason he did not contact Detective Garner between August 1 and 15, 2023, was because he "just forgot, literally."

The circuit court found Mr. Hammond guilty of knowingly failing to register, concluding that he knew he had to register, but did not do so. The circuit court ruled as follows:

All right. I've, as I was saying, I've reviewed the exhibits, I heard testimony, I've reviewed the statute, looked at the case law that was cited by your attorney and some others.

There are really no facts in dispute in this case, sir. Both sides agree that you were required to register since 2009. That's not in dispute. That you've been registering every six months since 2009, except once in 2016, which you were convicted for, and once in 2023, which we're here for today.

The Defense in this case is that Mr. Hammond forgot his date to re-register in August of 2023.

He had moved to Charles County from Prince George's County in December of 2022, his sister testified to that. Lived with her.

He registered in Charles County in February of 2023. You were given a report date at the time you registered in, Mr. Hammond registered in February of 2023 on the next six months requirement and that was August 1st, 2023.

Mr. Hammond didn't show up for his appointment because he had a funeral and, in his words, it slipped his mind. I believe that was in the Email to the Detective, and on the stand he stated I forgot.

In closing [defense counsel] stated, and there was a lot going on in Mr. Hammond's life at the time and his sister testified to it, he testified to it, there was a lot going on, and [defense counsel] stated that maybe if not a lot going on he would have remembered.

Or the flip side of that is maybe he wouldn't have remembered at all, I don't know, if the office hadn't taken the responsibility that it took, the Charles County Sheriff's Office in filing the charges.

There are things that law enforcement could have done differently to assist Mr. Hammond to remind him and there are steps that Mr. Hammond could have taken to make sure he remembered, which he obviously -- which if he did they obviously didn't work in this case because of the circumstances.

The Court's not in a position to require any law enforcement agency to take steps that are not required and mandated by the law; nor is it the role of the Court to tell the Defendant how best it is for him in an individual capacity to remember.

The question in this case is did Mr. Hammond knowingly fail to register. That's the defense.

It's undisputed that he knew he had to register. Undisputed he was given the date and time to do that. Undisputed he knew how to reschedule his appointment since he had done that in February.

I forgot doesn't mean you didn't know, it simply means I forgot. There's a distinction between not knowing and [] forgetting.

After finding Mr. Hammond guilty of knowingly failing to register, the circuit court sentenced Mr. Hammond to five years' imprisonment, all suspended, with five years of unsupervised probation.⁵

On May 26, 2024, Mr. Hammond timely filed a notice of appeal.

Opinion of the Appellate Court of Maryland

On January 30, 2026, the Appellate Court of Maryland affirmed the circuit court's judgment and concluded that Mr. Hammond "knowingly" failed to register as required in violation of CP § 11-721(a). See Hammond, 268 Md. App. at 483, 507, 351 A.3d at 65, 79. The Appellate Court began its analysis by reviewing the text of CP § 11-721(a). See id. at 491, 351 A.3d at 70. The Appellate Court stated that the term "knowingly" in CP §

⁵A person who violates CP § 11-721(a) "for a first offense, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both" and "for a second or subsequent offense, is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both." CP § 11-721(b). Mr. Hammond was able to receive a five-year suspended sentence because he had previously been convicted of failing to register.

11-721(a) had previously been defined as meaning “that the registrant acts with knowledge, i.e., that he *knows* that he *must* register as a sex offender but does not do so” and that the “definition suggests that prior notice is sufficient to establish knowledge under CP § 11-721(a).” Id. at 491, 351 A.3d at 70 (citing Correll v. State, 215 Md. App. 483, 504-05, 81 A.3d 600, 612 (2013)).

The Appellate Court explained that because the term “knowingly” is not expressly defined in CP § 11-721(a) or in any other statute in the Criminal Procedure Article, it would look to statutes in the Criminal Law Article, the Model Penal Code, case law of the Supreme Court of the United States, and the dictionary for definitions of the term. See id. at 491-93, 351 A.3d at 70-71. The Appellate Court explained that definitions from these sources demonstrate that “you do not necessarily need to know that you violated CP § 11-721, just that you were supposed to register (aware of your duty) and did not.” Id. at 494, 351 A.3d at 71 (citations omitted).

The Appellate Court observed that this Court has stated “that the overarching goal of the sex offender registration statute [is] to protect the public[,]” and that it kept this purpose in mind as it analyzed the definition of “knowingly.” Id. at 496, 351 A.3d at 73 (citation modified). The Appellate Court explained that, although MSORA has been amended from time to time over the years since it was first enacted, “[n]otably, [] since its inclusion” in the prior version of the statute in 1995, “the word ‘knowingly’ as used in CP § 11-721(a) has remained undefined and unchallenged by any proposed amendment.” Id. at 496-97, 351 A.3d at 73. The Appellate Court rejected Mr. Hammond’s argument that, because of the lack of definition of the term “knowingly” in MSORA, the statute is

ambiguous and the rule of lenity should apply. See id. at 497, 351 A.3d at 73.

The Appellate Court described as instructive the recent federal decision of United States v. Kokinda, 146 F.4th 405 (4th Cir. 2025), in which the United States Court of Appeals for the Fourth Circuit rejected an invitation to apply the rule of lenity in construing the Sex Offender Registration and Notification Act (“SORNA”). See Hammond, 268 Md. App. at 497, 351 A.3d at 73. Construing MSORA like its federal counterpart, SORNA, the Appellate Court concluded that there was “insufficient ambiguity in MSORA” to rise to “the level of grievousness mandating application of the rule of lenity[.]” Id. at 498, 351 A.3d at 74.

The Appellate Court examined how courts in other jurisdictions have construed the word “knowingly” in their respective sex offender registration statutes. See id. at 498, 351 A.3d at 74. The Appellate Court determined that case law from other jurisdictions demonstrates that establishing that a person had prior notice of the duty to register is sufficient to satisfy the “knowingly” element of CP § 11-721(a) and that “[a] prior conviction for knowingly failing to register can also form a basis from which knowledge can be inferred.” Id. at 498-99, 351 A.3d at 74-75 (citation modified).

The Appellate Court stated that, by requiring that the failure to register be knowing, the General Assembly “did not intend to open the floodgates and excuse all sex offenders struggling with depression from their obligation to timely register” nor did the General Assembly intend “to excuse anyone who merely says, ‘oops, I forgot[.]’” Id. at 503, 351 A.3d at 77. The Appellate Court declined to carve out an exception for a registrant who forgets to register, especially where rescheduling registration in cases of extenuating

circumstances is an option, because such an exception “would not adhere to the [General Assembly’s] goal of encouraging compliance to keep the public informed and safe.” *Id.* at 505, 351 A.3d at 78. The Appellate Court concluded that, in this case, “Mr. Hammond knew of his obligation to register, knew how to reschedule his appointment, yet failed to do either[,]” and that “Mr. Hammond’s mistake, though unfortunate, did not negate his *mens rea*.” *Id.* at 505, 351 A.3d at 78.⁶

Petition for a Writ of *Certiorari*

On March 17, 2026, Mr. Hammond petitioned for a writ of *certiorari*, raising the following two issues:

1. As a matter of first impression, can forgetting to register for the Maryland sex offender registry serve as a defense to a charge of “knowingly” failing to register under [CP] § 11-721(a) and, if so, under what circumstances?
2. Did the trial court err in convicting [Mr. Hammond] of knowingly failing to register after finding as a fact that [Mr. Hammond] forgot to register?

On May 22, 2026, we granted the petition. *See Hammond*, 494 Md. 174, 357 A.3d 780.

DISCUSSION⁷

A. Standard of Review

“Statutory interpretation is a question of law, and thus, we review the meaning of a

⁶The Appellate Court agreed with the State “that a trial court is permitted to consider a defendant’s forgetfulness as mitigation at sentencing, as the [circuit] court did here.” *Hammond*, 268 Md. App. at 505, 351 A.3d at 78. The Appellate Court determined that the circuit court “appropriately tailored Mr. Hammond’s sentence to account for past and future mental health challenges that impede upon Mr. Hammond’s ability to comply with CP § 11-721.” *Id.* at 506, 351 A.3d at 79.

⁷Given the interrelated nature of the questions presented, we address the questions together in the discussion below.

statute *de novo*.” Coyle v. State, 490 Md. 312, 327, 335 A.3d 923, 931 (2025) (citation modified); see also State v. Hart, 449 Md. 246, 264, 144 A.3d 609, 619 (2016) (“[W]here an order involves an interpretation and application of Maryland constitutional, statutory or case law, our Court must determine whether the trial court’s conclusions are legally correct under a *de novo* standard of review.” (Citation modified)).

B. Statutory Construction

“[T]he cardinal rule of statutory interpretation . . . is to ascertain and effectuate the real and actual intent of the General Assembly.” Coyle, 490 Md. at 327, 335 A.3d at 931 (citation modified). To ascertain legislative intent, “we look first to the language of the statute, giving it its natural and ordinary meaning. We do so on the tacit theory that the General Assembly is presumed to have meant what it said and said what it meant.” Rogers v. State, 468 Md. 1, 13-14, 226 A.3d 261, 269 (2020) (citation modified). In interpreting the language of a statute, we start “by examining the normal, plain meaning of the statute to determine whether its language is unambiguous.” Coyle, 490 Md. at 328, 335 A.3d at 932 (citation modified). We do not add or delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with forced or subtle interpretations that limit or extend its application. See Rogers, 468 Md. at 14, 226 A.3d at 269; Coyle, 490 Md. at 328-29, 335 A.3d at 932. Where a term is not defined by statute, we may refer to the dictionary and give the word its ordinary meaning. See State v. Wilson, 471 Md. 136, 160, 240 A.3d 1140, 1154 (2020).

If the language of the statute, interpreted according to its “common and everyday meaning, [is] clear and unambiguous and express[es] a plain meaning, we will give effect

to the statute as it is written.” Rogers, 468 Md. at 14, 226 A.3d. at 269 (citation modified). In other words, “[i]f the language of the statute is unambiguous, we apply it as written” to give effect to the General Assembly’s intent. Coyle, 490 Md. at 327-28, 335 A.3d at 931-32 (citation modified). Our analysis typically ends there, “without resort to other rules of construction or sources outside of the statute itself, although the plain language of a statute must be viewed within the context of the statutory scheme to which it belongs,” all while “taking into consideration the purpose, aim, or policy of the General Assembly in enacting the statute.” Id. at 328, 335 A.3d at 932 (citation modified).

If the language of the statute is ambiguous, however, “we must resolve the ambiguity by searching for the purpose, aim, or policy of the General Assembly in enacting the statute, *i.e.*, legislative intent, in other indicia, including the history of the legislation.” Id. at 329, 335 A.3d at 932 (citation modified).

C. MSORA and CP § 11-721(a)

Under MSORA, persons convicted of certain sexual offenses are placed into a tiered registration system, see CP § 11-701(o), (p), and (q), and are required to register with the person’s supervising authority, see CP § 11-704(a). How often a person must register in person with the person’s supervising authority—either every three or six months—and the term of registration, *i.e.*, how many years a person must register, depends upon the person’s tier classification. See CP § 11-707(a). Registration requires completing a registration statement that must contain, among other things, the registrant’s full name and all addresses and places where the registrant resides or habitually lives; the name and address of each of the registrant’s employers; a description of the crime of which the registrant was convicted;

all identifying factors, including a physical description; information for any vehicle owned or regularly operated by the registrant and the locations where all vehicles are kept; and the registrant's fingerprints and palm prints. See CP § 11-706(a).

Knowingly failing to register is a criminal offense. CP § 11-721(a), the statute at issue, provides:

A registrant may not knowingly fail to register, knowingly fail to provide the notice required under § 11-705 of this subtitle, knowingly fail to provide any information required to be included in a registration statement described in § 11-706 of this subtitle, or knowingly provide false information of a material fact as required by this subtitle.

CP § 11-721(a) – Plain Language

Mr. Hammond contends that the term “knowingly” in the phrase “knowingly fail to register” in CP § 11-721(a) requires “a showing of current, and not just prior, knowledge of a registrant’s duty to register at the time of failing to do so[.]” The State “does not dispute” that a registrant must know of the obligation to register at the time the registrant fails to do so, but contends that “prior notice satisfies the knowledge requirement.”

Because this case turns on the meaning of the word “knowingly” as used in CP § 11-721(a) and whether forgetting can serve as a defense to “knowingly” failing to register, we must first examine the plain meaning of “knowingly” within the statutory text. CP § 11-721 does not define the term “knowingly” as used in any of the clauses of subsection (a). Moreover, no statute in MSORA or elsewhere in the Criminal Procedure Article provides a definition of the term “knowingly.” See, e.g., CP §§ 1-101, 11-101, 11-701. Because the word “knowingly” is not defined by statute, we refer to the dictionary definition and give the term its normal or ordinary meaning. See Coyle, 490 Md. at 328,

335 A.3d at 932.

The Oxford English Dictionary defines “knowingly,” as “[w]ith knowledge or awareness (of what one is doing, of a fact, etc.); consciously, intentionally.” *Knowingly*, Oxford English Dictionary (Oxford University Press 2026), https://www.oed.com/dictionary/knowingly_adv [<https://perma.cc/Y7XV-H4YB>]. Merriam-Webster’s Dictionary defines “knowingly” as “in a knowing manner” and “especially: with awareness, deliberateness, or intention[.]” *Knowingly*, Merriam-Webster (Merriam-Webster, Inc. 2026), <https://www.merriam-webster.com/dictionary/knowingly> [<https://perma.cc/96PJ-P2PS>] (italics omitted). Black’s Law Dictionary defines “knowingly” as “[i]n such a manner that the actor engaged in prohibited conduct with the knowledge that the social harm that the law was designed to prevent was practically certain to result; deliberately.” *Knowingly*, Black’s Law Dictionary (12th ed. 2024). Section 2.02(2)(b) of the Model Penal Code, which is quoted at the end of the Black’s Law Dictionary definition, provides:

A person acts knowingly with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
- (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

Given that MSORA was originally enacted in 1995, see Graves v. State, 364 Md. 329, 336-37, 772 A.2d 1225, 1229-30 (2001), we will also consider dictionary definitions of “knowingly” that would have been in effect at the time of the statute’s enactment. The Second Edition of the Oxford English Dictionary, published in 1989, defined the adverb

“knowingly” as “[i]n a knowing manner; with knowledge; intelligently, consciously, intentionally, etc.” *Knowingly*, Oxford English Dictionary (2d ed. 1989), <https://www.oed.com/oedv2/00127603> [<https://perma.cc/H5BQ-H5WR>]. The Sixth Edition of Black’s Law Dictionary, published in 1990, defined “knowingly” in relevant part as “[w]ith knowledge; conscious; intelligently; willfully; intentionally.” *Knowingly*, Black’s Law Dictionary 872 (6th ed. 1990). The Sixth Edition of Black’s Law Dictionary also provided that “[a]n individual acts ‘knowingly’ when he acts with awareness of the nature of his conduct.” *Id.* (citation omitted).

Like the current version of the Black’s Law Dictionary definition of the word “knowingly,” the 1990 definition referred to the Model Penal Code and stated:

A person acts knowingly with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

Knowingly, Black’s Law Dictionary 872 (6th ed. 1990) (citing “Model Penal Code, §2.202”).⁸

⁸We note that, similar to the Model Penal Code, which is cited and discussed in the Black’s Law Dictionary definition of “knowingly,” Maryland’s theft statute provides:

(1) A person acts “knowingly”:

(i) with respect to conduct or a circumstance as described by a statute that defines a crime, when the person is aware of the conduct or that the circumstance exists;

At bottom, what can be gleaned from a review of both the current definitions of the word “knowingly” and those in effect at the time of MSORA’s enactment is that these definitions of the word demonstrate that to act “knowingly” means to act or fail to act with knowledge, awareness, or consciousness of what one is doing. Accorded its plain and ordinary meaning, as used in CP § 11-721(a), “knowingly” means that a registrant acts, or fails to act, as the case may be, with knowledge, awareness, or consciousness of the obligations imposed under MSORA. In other words, under the plain meaning of the word “knowingly,” knowingly failing to register in violation of CP § 11-721(a) means that a registrant knows, is aware, or conscious of the duty to register and fails to do so.

In cases in which this Court has discussed CP § 11-721(a), or its predecessor, we have not had occasion to define the meaning of the word “knowingly.” See, e.g., Rogers, 468 Md. at 19, 40, 226 A.3d at 272, 284; Doe v. Dep’t of Pub. Safety and Corr. Servs., 430 Md. 535, 562, 62 A.3d 123, 139 (2013); Barnes v. State, 423 Md. 75, 81 n.2, 31 A.3d 203,

(ii) with respect to the result of conduct as described by a statute that defines a crime, when the person is practically certain that the result will be caused by the person’s conduct; and

(iii) with respect to a person’s knowledge of the existence of a particular fact, if that knowledge is an element of a crime, when the person is practically certain of the existence of that fact.

(2) The terms “knowing” and “with knowledge” are construed in the same manner.

Md. Code Ann., Crim. Law (2002, 2021 Repl. Vol.) § 7-102(b).

206 n.2 (2011); Young v. State, 370 Md. 686, 695 n.5, 806 A.2d 233, 238 n.5 (2002).⁹

On at least one occasion, the Appellate Court has discussed the definition of the word “knowingly” for purposes of CP § 11-721(a) and described its meaning in the same manner that we do today. See Correll, 215 Md. App. at 504-05, 81 A.3d at 612. In Correll, id. at 502-03, 507, 81 A.3d at 611, 613-14, where the trial court had precluded the defendant from impeaching a witness with a prior conviction for failing to register as a sex offender, the Appellate Court held that failure to register as a sex offender is not an impeachable offense, and that even if it were, “the trial court properly exercised discretion in ruling that additional impeachment with a conviction for failure to register as a sex offender was not necessary.”

The defendant argued that the crime of failing to register showed a lack of

⁹In Twine v. State, 395 Md. 539, 543, 548, 554-55, 910 A.2d 1132, 1134, 1137, 1140-41 (2006), where the petitioner had been convicted under CP § 11-721(a) for knowingly failing to provide the notice required by CP § 11-705(d), which required at the time that a registrant who changes residences send written notice to the Department within seven days after the change occurs, we reversed the petitioner’s conviction and held that the statute as written did not apply to a person like the petitioner, who was experiencing homelessness, because it was not possible for him to comply with the statutory requirements as he did not have a “residence” within the meaning of the statute. In a companion case issued the same day, Jeandell v. State, 395 Md. 556, 557, 560, 910 A.2d 1141, 1142, 1144 (2006), where the petitioner was convicted of violating CP § 11-721(a) for knowingly failing to notify the State of his change of residence as required at the time by CP § 11-705(d), we reversed the conviction and held that the Appellate Court erred in holding that, even though the petitioner was experiencing homelessness, he was aware of the statutory requirements and knowingly failed to comply with them.

These two cases stand for the proposition that, where it was impossible to comply with the notice requirement set forth in CP § 11-705 because a registrant who was experiencing homelessness did not have a residence and therefore could not give notice of a change of residence, such a registrant could not knowingly fail to provide the required notice in violation of CP § 11-721(a).

trustworthiness and therefore bore on credibility. See id. at 504, 81 A.3d at 612. In determining whether failure to register is a crime relevant to credibility, the Appellate Court reviewed the elements of the offense set forth in CP § 11-721(a) and stated:

[T]o be guilty of the crime of failing to register, a registrant, *i.e.*, a person who is required to register as a sex offender, must knowingly fail to do so. “Knowingly” means that the registrant acts with knowledge, *i.e.*, that he knows that he must register as a sex offender but does not do so.

Id. at 504-05, 81 A.3d at 612. The Appellate Court concluded that failure to register as a sex offender was not an impeachable offense under Maryland Rule 5-609(a) because the elements of the offense “do not include an intent to deceive[,]” and “[a] sex offender can knowingly fail to register, thus committing the crime, for reasons that are not deceptive.” Id. at 506-07, 81 A.3d at 613.

We agree with the Appellate Court’s discussion in Correll, 215 Md. App. at 504-05, 81 A.3d at 612, and its conclusion in this case, Hammond, 268 Md. App. at 494, 351 A.3d at 71—that, for purposes of CP § 11-721(a), “knowingly” “means that [a] registrant acts with knowledge, *i.e.*, that [t]he [person] knows that [t]he [person] must register as a sex offender but does not do so.” The Appellate Court’s analysis comports with the plain and ordinary meaning of the word “knowingly” based on its dictionary definition. The ordinary meaning of “knowingly” is unambiguous and is defined by multiple sources as to act with knowledge, awareness, or consciousness. Based on the plain language of CP § 11-721(a), we conclude that demonstrating that a person had knowledge or awareness of the obligation to register—that the registrant was “on notice” of the duty to register—is sufficient to establish that a person knowingly failed to register under CP § 11-721(a).

Put simply, we hold that where a person has notice of the duty to register, forgetting to do so is not a valid defense to the charge of knowingly failing to register under CP § 11-721(a). To establish a violation of CP § 11-721(a), the State need only prove that a person had notice of the duty or obligation to register and failed to do so. Such proof is sufficient to establish that a person who fails to register “knowingly” failed to do so. However, evidence of an involuntarily caused medically diagnosed condition that results in memory or cognitive deficiencies that negate a person’s ability to know, be aware, or conscious of the person’s duties under MSORA may serve as a defense to the charge. Likewise, a lack of notice of the obligation to register or impossibility, *i.e.*, uncontrollable external circumstances that prevent compliance with the obligation, such as an unforeseen hospitalization, may serve as a defense.

Simply forgetting to register, even if that forgetfulness is due to a registrant experiencing difficult personal circumstances, does not negate knowledge of the duty to register. To hold otherwise would render CP § 11-721(a) meaningless by permitting its knowledge element to be negated by a registrant claiming not to remember where it is clear that the registrant had notice and therefore knowledge of the duty to register.

Statutory Construction – Legislative History

Although the plain language of CP § 11-721(a) is unambiguous and our analysis could end at this point, it bears mentioning that our holding is consistent with the legislative history of MSORA and the overall purpose of the sex offender registry—to protect the public by requiring registrants to provide information about themselves to law enforcement, allowing information about convicted sex offenders residing or working in

an area to be disseminated to the public. See Young, 370 Md. at 712, 806 A.2d at 248-49.

In 1995, the General Assembly enacted what became Md. Code, Art. 27, § 792 (and was originally Art. 27, § 692B), titled “Registration of Offenders,” “pursuant to the requirements of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program enacted by the United States Congress as part of the Violent Crime Control and Law Enforcement Act of 1994.” Graves, 364 Md. at 336, 772 A.2d at 1229-30 (citation modified).¹⁰ The Maryland statute was originally entitled “The Maryland Crimes Against Children and Sexual Offender Registration Law” and was enacted as Chapter 142 of the 1995 Laws of Maryland. See id. at 337, 772 A.2d at 1230; see also 1995 Md. Laws 1820-30 (Vol. III, Ch. 142, S.B. 79).¹¹ As originally enacted, the statute provided, in relevant part, in a section titled “Penalty” that “[a] child sexual offender who knowingly fails to register as required by this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.” Md. Code (1992 Repl. Vol., 1995 Supp.), Art. 27, § 692B(k); see also 1995 Md. Laws 1830.

The bill file for Senate Bill 79, the bill that became Md. Code (1992 Repl. Vol.,

¹⁰For a more in-depth discussion of the federal act and its history, see Graves, 364 Md. at 336 n.8, 772 A.2d at 1230 n.8, and Cain v. State, 386 Md. 320, 329-30, 872 A.2d 681, 686-87 (2005).

¹¹The statute, as originally enacted, generally related to child sexual offenders and the purpose of the statute was, among other reasons, to require that “certain supervising authorities [] send written notice of the release of a child sexual offender to the local law enforcement agency in the county where the offender will reside[.]” and that “a child sexual offender [] register with the local law enforcement agency within a certain period[.]” 1995 Md. Laws 1820.

1995 Supp.), Art. 27, § 692B, contains scant background about what became the penalty provision, *i.e.*, the failure to register provision. The bill file for Senate Bill 79 does not contain a discussion of the word “knowingly” or what it means as used in the penalty provision that became Md. Code (1992 Repl. Vol., 1995 Supp.), Art. 27, § 692B(k).

In Young, 370 Md. at 712, 715, 806 A.2d at 248, 250, with respect to the General Assembly’s intent in enacting MSORA generally, we concluded that “the plain language and overall design of [the statute] clearly indicate that it was not intended as punishment, but rather was intended as a regulatory requirement aimed at protection of the public” “from sex offenders.” The bill file for Senate Bill 79 reveals that to be the case—that an overarching purpose of enactment of the statute was for the protection of the public. In a second Revised Fiscal and Policy Note, with respect to expenditures by local law enforcement agencies for notifying community organizations when a sex offender registers or updates a registration, the General Assembly stated that the agencies are required to “notify community, religious and youth organizations as it determines is necessary for the protection of the public” and that “[d]etermination of which groups should be notified for protection of the public could increase expenditures.” S.B. 79, 1995 Leg., Reg. Sess. (Md. 1995), Revised Fiscal and Policy Note, Enrolled Bill, at 3.

Letters from the public and organizations in support of Senate Bill 79 stressed the need to protect the public through maintenance of a sex offender registry and community notification. As one example, in a letter dated March 8, 1995, to the chairman of the Senate Judicial Proceedings Committee from Charles Shubin, M.D., Chair of the Committee on Substitute Care and Child Maltreatment, on behalf of the Maryland Chapter of the

American Academy of Pediatrics, Dr. Shubin wrote: “Treatment for the pedophile includes constant, ongoing supervision, and the knowledge that he is being supervised. Awareness within the community by the police and citizens is also part of prevention. Communities who are on guard against a molester are better protected.” As another example, in a letter dated March 29, 1995, to the chairman of the House Judiciary Committee from Anne Furst McCloskey, chairperson of the Maryland Coalition Against Crime, Ms. McCloskey urged that the committee pass Senate Bill 79 with proposed amendments because there was the need to “provide some degree of protection for our communities by at least knowing when convicted offenders are present” and Senate Bill 79 with amendments would “provide some much needed safeguards.”¹²

In May 1996, “Congress amended the Wetterling Act by renaming it Megan’s Law^[13] and required states to add language to their statutes mandating the release of relevant sex offender registrant information necessary to protect the public.” Cain v. State, 386 Md. 320, 329, 872 A.2d 681, 686 (2005) (citation omitted). So, “[i]n 1997, Senate Bill

¹² In 1996, Art. 27, § 692B was amended, effective April 9, 1996, to correct spelling mistakes and grammatical errors. See 1996 Md. Laws 45, 47, 76, 235 (Vol. I, Ch. 10, S.B. 11). Also in 1996, Art. 27, § 692B was renumbered as Art. 27, § 792 with no change, effective October 1, 1996. See 1996 Md. Laws 3316, 3318, 3335-41, 3393 (Vol. V, Ch. 585, S.B. 456). At that time, Art. 27, § 692B(k) became Art. 27, § 792(k) without any change in language. See Md. Code (1996 Repl. Vol.), Art. 27, § 792(k).

¹³ The legislation was named after a young girl who was the victim of a crime committed in 1994 by a convicted child sex offender, who “sexually assaulted and murdered his seven year-old neighbor, Megan Kanka[,]” which led to “public outrage” that “prompted the states and the federal government to re-examine the structure of their respective sex offender registration statutes.” Graves, 364 Md. at 336 n.8, 772 A.2d at 1230 n.8. Congress renamed the Wetterling Act as “Megan’s Law” and required “the states to add language to their statutes mandating the release of relevant sex offender registrant information necessary to protect the public.” Id. at n.8, 77 A.2d at n.8 (citation omitted).

605 was enacted to expand the sexual offender registration statute to comply with the 1996 amendments to the Federal Wetterling Act, and established additional classifications of offenders subject to the statutory registration requirements,” effective May 22, 1997. Id. at 331, 872 A.2d at 688 (citation omitted); see also 1997 Md. Laws 4263-92 (Vol. VI, Ch. 754, S.B. 605). “In addition to child sexual offenders, the new registration provisions made Section 792 applicable to ‘offenders,’ ‘sexually violent offenders,’ and ‘sexually violent predators,’ which were defined individually by category.” Cain, 386 Md. at 331, 872 A.2d at 688 (citation omitted).

After the amendments, effective October 1, 1997, the penalty provision of the statute became subsection (m) and provided: “A registrant who knowingly fails to register as required by this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.” Md. Code (1996 Repl. Vol., 1997 Supp.), Art. 27, § 792(m); see also 1997 Md. Laws 4291.¹⁴ The only change to the section from when it was first enacted was to change “child sexual offender” to “registrant,” consistent with the amendments to make Art. 27, § 792 applicable to more than child sexual offenders.¹⁵

¹⁴As part of the Victims’ Rights Act of 1997, other amendments to what was Art. 27, § 792(b) were also enacted, effective October 1, 1997. See 1997 Md. Laws 2212, 2231-32, 2262 (Vol. IV, Ch. 311, S.B. 173); 1997 Md. Laws 2262, 2282-83, 2313 (Vol. IV, Ch. 312, H.B. 768). Those amendments did not affect the penalty provision of the statute.

¹⁵The bill file for Senate Bill 605 contains a letter/bill analysis from the Maryland Department of Health and Mental Hygiene, now known as the Maryland Department of Health, in which the department stated that it supported Senate Bill 605 with amendments and noted that “[t]he intended purpose of S.B. 605 is to protect the public f[ro]m recidivistic sex offenders.”

In 1998, Art. 27, § 792 was amended for the purpose of, among other things, prohibiting a registrant from knowingly providing false information of a material fact. See 1998 Md. Laws 2253-54, 2263 (Vol. IV, Ch. 473, H.B. 398). After the amendment, Art. 27, § 792(m) provided: “A registrant who knowingly fails to register or knowingly provides false information of a material fact as required by this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.” Md. Code (1996 Repl. Vol., 1998 Supp.), Art. 27, § 792(m).¹⁶ In 1999, Art. 27, § 792 was repealed and a new version enacted in lieu thereof, such that the penalty provision, which had been subsection (m), became subsection (l) with no change in language. See Md. Code (1996 Repl. Vol., 1999 Supp.), Art. 27, § 792(l); 1999 Md. Laws 2302, 2315 (Vol. IV, Ch. 317, S.B. 73).¹⁷

In 2001, Art. 27, § 792 was repealed and recodified as Subtitle 7 of Title 11 of the Criminal Procedure Article, and what had been Art. 27, § 792(l) became Md. Code Ann., Crim. Proc. (2001) § 11-721, with the Revisor’s Note stating that the section was “new language derived without substantive change from former Art. 27, § 792(l).” See 2001 Md. Laws 76, 380-401 (Vol. I, Ch. 10, S.B.1). At that time, Crim. Proc. (2001) § 11-721(a)

¹⁶Other amendments to Art. 27, § 792 in 1998 did not affect subsection (m). See 1998 Md. Laws 446, 475-76 (Vol. I, Ch. 21, S.B. 93); 1998 Md. Laws 2426-29 (Vol. IV, Ch. 521, H.B. 875).

¹⁷Art. 27, § 792 was amended two other times in 1999, but no change was made to what became subsection (l). See 1999 Md. Laws 1015, 1024 (Vol. II, Ch. 64, H.B. 88); 1999 Md. Laws 2672-75 (Vol. IV, Ch. 402, H.B. 229).

In 2000, Art. 27, § 792 was amended twice, but no change was made to the penalty provision contained in subsection (l). See 2000 Md. Laws 448, 468-79 (Vol. I, Ch. 61, S.B. 159); 2000 Md. Laws 1887, 1899 (Vol. III, Ch. 314, S.B. 834); see also Md. Code (1996 Repl. Vol., 2000 Supp.), Art. 27, § 792(l).

provided: “A registrant may not knowingly fail to register or knowingly provide false information of a material fact as required by this subtitle.” Since 2001, CP § 11-721(a) has provided that a “registrant may not knowingly fail to register[.]”¹⁸

The legislative history of CP § 11-721(a) demonstrates that the purpose of MSORA, including the penalty provision now set forth in CP § 11-721(a), is to protect the public. The statute protects the public by, among other things, requiring sex offenders to register and making the knowing failure to register a criminal offense. Nothing in the legislative history of MSORA, or in amendments over the years to what is now CP § 11-721(a), shows any intent on the part of the General Assembly to excuse sex offenders from complying with the requirement to timely register where a registrant simply forgets to register. Permitting the *mens rea* necessary for a conviction under CP § 11-721(a) to be negated by a failure to remember, whether due to difficult life circumstances or other stressors, the severity and effect of which are undocumented by medical evidence, risks paving the way to excuse any number of registrants from the obligation to timely register. The plain language and statutory history of CP § 11-721(a) and MSORA do not countenance such a result.

¹⁸Between 2002 and 2010, CP § 11-721(a) was amended several times. In relevant part, in 2002, in addition to knowingly failing to register and knowingly providing false information of a material fact, the subsection was amended to also prohibit knowingly failing to provide the notice required under CP § 11-705. See 2002 Md. Laws 1708, 1719 (Vol. III, Ch. 194, H.B. 77). And, in 2010, subsection (a) was amended to also prohibit knowingly failing to provide any information required to be included in a registration statement described in CP § 11-706. See 2010 Md. Laws 1222, 1261 (Vol. II, Ch. 174, S.B. 854); 2010 Md. Laws 1269, 1305 (Vol. II, Ch. 175, H.B. 936). CP § 11-721 has not been amended since 2010.

D. Case Law from Other Jurisdictions

Case law from other jurisdictions confirms our conclusion that ordinarily proof that a person “knowingly” failed to register in compliance with CP § 11-721(a) requires only evidence sufficient to find that the person had knowledge of the duty to register and failed to do so. Over six decades ago, in Lambert v. California, 355 U.S. 225, 226, 229-30 (1957), in a case involving a defendant’s failure to register as a convicted felon, the Supreme Court of the United States established the principle that where a person does not know of a duty to register, the person may not be convicted of the offense of failing to register. In Lambert, id. at 226, the statute at issue did not require that the failure to register be knowing. Nonetheless, observing that “[r]egistration laws are common and their range is wide[.]” the Supreme Court held that “[w]here a person did not know of the duty to register and where there was no proof of the probability of such knowledge, [the person] may not be convicted consistently with due process.” Id. at 229-30.

In People v. Barker, 96 P.3d 507, 509-10 (Cal. 2004), where the defendant, a person required to register as a sex offender, was convicted under the relevant statute of willfully failing to register, the Supreme Court of California affirmed the holding of the appellate court that “simply forgetting is not a defense to a charge of” willfully failing to register. The Court acknowledged that “the argument that a person cannot be said to know something if he or she has forgotten it, for whatever reason, does have a superficial plausibility[.]” but concluded that “[i]t is simply inconceivable the Legislature intended just forgetting to be a sufficient excuse for failing to comply” with sex offender registration

requirements. Id. at 514 (emphasis omitted).¹⁹ Relying on basic principles of statutory construction, the Court explained that its “role in construing a statute is to ascertain the Legislature’s intent so as to effectuate the purpose of the law” and that it “must adopt the construction that is most consistent with the apparent legislative purpose and avoids absurd consequences.” Id. at 514 (citation modified).

In People v. Sorden, 113 P.3d 565, 567 (Cal. 2005), a case in which the defendant sought to testify that he forgot to update his sex offender registration due to depression and the trial court precluded the testimony, the Supreme Court of California held that “the willfulness element of the offense may be negated by evidence that an involuntary condition—physical or mental, temporary or permanent—deprived a defendant of actual knowledge of his or her duty to register.” As in Barker, the Court explained that a violation of the failure to register statute required “actual knowledge of the duty to register.” Sorden, 113 P.3d at 568.

The Supreme Court of California concluded that “a person may suffer from an involuntary condition so disabling as to rob him of knowledge of his registration obligations under” the statute. Id. at 569. The Court held that, “in order to avoid any due

¹⁹The statute that the defendant had been convicted of provided that “[a] person required to register because of a felony conviction who ‘willfully violates’ the registration provisions ‘is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.’” Barker, 96 P.3d at 510 (citations omitted). The Court explained that “the term ‘willfully’ imports a requirement that the person knows what he is doing[,]” and that, “[c]onsistent with that requirement, and in appropriate cases, knowledge has been held to be a concomitant of willfulness.” Id. at 510-11 (citation modified). The Court concluded that a violation of the failure to register statute at issue “requires actual knowledge of the duty to register.” Id. at 511.

process problems, . . . a defendant charged with violation of [the failure to register statute] may present substantial evidence that, because of an involuntary condition— temporary or permanent, physical or mental—he lacked actual knowledge of his duty to register.” Id. The Court noted that depression is not a voluntary condition and concluded that “[t]he question [of] whether a defendant has proffered evidence sufficiently substantial to go to the jury under the standard [it] announce[d] [] is a question confi[n]ed to the sound discretion of the trial court.” Id. at 569-70. The Court reversed the judgment of the appellate court and remanded the case for further proceedings consistent with the views expressed in its opinion. See id. at 570.

In State v. Servatius, 395 P.3d 910, 911, 914 (Or. Ct. App. 2017), where the defendant presented evidence that he had dementia, the Court of Appeals of Oregon reversed the defendant’s conviction for the offense of failure to appear on a criminal citation and held that, to violate the failure to appear statute, a person must be aware of the obligation to appear for court at the time the person fails to fulfill that obligation. At trial, the defendant presented evidence that “he ha[d] dementia caused by Alzheimer’s disease and that he suffer[ed] from short-term memory loss and has difficulty remembering dates and appointments.” Id. at 911.

The statute at issue, Or. Rev. Stat. § 133.076, provided, in relevant part: “A person commits the offense of failure to appear on a criminal citation if the person has been served with a criminal citation . . . and the person knowingly fails to . . . [m]ake an appearance[.]” Id. at 912-13 (emphasis omitted). The Court noted that, under Or. Rev. Stat. § 161.085(8), “[k]nowingly” means “that a person acts with an awareness that the conduct of the person

is of a nature so described[.]” Id. at 913 (emphasis omitted). The Court concluded that, to violate the failure to appear statute, a person must act “with an awareness that [t]he [person] is failing to appear in court ‘at the time, date and court specified in the citation,’” and that “there must be a coincidence of mental state and action.” Id.

The Court concluded, however, that “[g]enerally, it is possible for the state to satisfy that evidentiary burden by presenting circumstantial evidence—such as issuance of a citation—from which a factfinder may infer that the defendant had the requisite knowing mental state.” Id. at 914. The Court observed, though, that, in the case, “the trial court expressly refused to draw such an inference” because it concluded that the state was not required to prove the defendant’s awareness on the date of his required appearance. Id. The Court held that, because the trial court did not make a finding regarding whether the defendant knew of his court date at the time he failed to appear and found only that the defendant had received notice of the date, “the trial court convicted defendant under an erroneous legal theory, and without making a required finding.” Id. The Court reversed the judgment of conviction and remanded the case. See id.

Mr. Hammond cites a series of cases—State v. Mikulak, 903 N.W.2d 600 (Minn. 2017), Commonwealth v. Corbett, 191 N.E.3d 336 (Mass. App. Ct. 2022), and Dailey v. State, 65 P.3d 891 (Alaska Ct. App. 2003)—for the proposition that courts in other states with sex offender registration statutes have interpreted the scienter element of their statutes “to require not merely general evidence that a registrant was previously notified of his duty to register, but also evidence that the registrant was aware of his duty specifically at the time that he failed to register.” Mr. Hammond’s reliance on Mikulak, Corbett, and Dailey

for the position that, in addition to proving that he had knowledge of the duty to register, the State was required to present evidence that he was aware of the duty at the time he failed to register is misplaced. In Mikulak, 903 N.W.2d at 602, the defendant consistently stated that he did not know that he had the duty to register within 24 hours of leaving a primary residence and entering a new jurisdiction within the State of Minnesota but entered a guilty plea to the offense of knowingly violating a provision of Minnesota’s predatory offender registration statute.²⁰ At the time of the guilty plea, as part of the factual basis for the plea, the defendant advised the court that he “now[,]” meaning at the time of the plea, understood that he had been required to register within 24 hours of entering the county. Id.

The defendant appealed, contending that the factual basis for the plea was insufficient because his statements “negated the mens rea element of the charged offense[.]” Id. The Court of Appeals of Minnesota affirmed the conviction, concluding that “ignorance of the law [was] no excuse.” Id. at 601. The Supreme Court of Minnesota reversed the judgment of the Court of Appeals, holding that, “[b]ecause knowledge of the law at the time of the violation is an element of the offense of knowingly violating a provision of the predatory-offender-registration statute, the court of appeals’ reliance on the principle that ignorance of the law is no excuse was misplaced in this case.” Id. at 604 (footnote omitted).

²⁰The defendant had been charged with “knowingly” violating Minn. Stat. Ann. § 243.166, “subdivision 3a, paragraphs (a) and (c), which require a predatory offender who leaves a primary residence without obtaining a new primary residence to register within 24 hours of leaving the primary residence and within 24 hours of entering a new jurisdiction.” Mikulak, 903 N.W.2d at 602.

Mikulak neither applies here nor stands for the proposition that the State was required to produce evidence both that Mr. Hammond had notice of the obligation to register and that he knew of the obligation at the time that he failed to do so. Nor does the case stand for the proposition that merely forgetting to register is a valid defense. In Mikulak, id. at 602, the defendant contended that he did not know that he had an obligation to register. In reversing the conviction, the Supreme Court of Minnesota explained that, during the plea hearing, the defendant “consistently stated that he did not know that he was required to register within 24 hours of entering Renville County, making statements like ‘I just don’t remember what I signed’ and affirming that ‘at the time you moved down to Renville County you didn’t remember that that’s what you were told.’” Id. at 605 (citation modified). Mr. Hammond’s situation is different. It is undisputed that the State proved he had knowledge of the duty to register in Charles County on August 1, 2023.

If anything, the Supreme Court of Minnesota’s holding in Mikulak supports the State’s position here. To be sure, it is accurate that, when referring to its failure to register statute, the Supreme Court of Minnesota stated that “[t]he plain text of the statute suggests that the defendant must know that he is violating the statute when the violation occurs.” Id. at 603. However, the Court reversed the defendant’s conviction because, during the guilty plea hearing, the defendant did not withdraw his earlier statements that he had no knowledge of the requirement to register within 24 hours. See id. at 605. If relevant at all, the Supreme Court of Minnesota’s holding in Mikulak demonstrates that, had the defendant withdrawn the statements that he lacked notice of the duty to register, the *mens rea* of the

charged offense would not have been negated and the evidence would have been sufficient for conviction.

In Corbett, 191 N.E.3d at 337, 341, where the trial court rejected as irrelevant the defendant's proffered expert testimony "to the effect that [the defendant] had 'mental disorders' that caused him to be unable to remember to register" as a sex offender, the Appeals Court of Massachusetts reversed the decision of the trial court and held that "to 'knowingly' fail to act requires that the defendant have the ability to perceive -- to remember -- that he has an obligation to act as of the time of the crime[.]"²¹ But, the Court explained:

In so holding we do not mean to suggest that proof of actual notice is insufficient to satisfy the Commonwealth's burden of proof on the knowingly element. In general a fact finder could infer, from proof that the defendant

²¹The Court described the expert's report as follows:

The report stated that the defendant "struggled with significant mental disorders that adversely impact upon his daily functioning." While the report did not cite a clearly identifiable disease affecting the defendant's memory, such as Alzheimer's disease, it stated that the defendant had been diagnosed in September 2016 with attention deficit hyperactivity disorder, bipolar disorder II, posttraumatic stress disorder, borderline personality disorder, and substance use disorder. It also noted that the defendant's "significant medical problems include a history of deficits in memory." It concluded with an opinion regarding why the defendant failed to register:

"Mr. Corbett's failure to register is a consequence of a more overarching and formidable problem, namely the necessity to obtain the aforementioned comprehensive treatment for his underlying mental disorders. Mr. Corbett's untreated mental condition and homelessness have significantly interfered with his ability to remember and prioritize his activities, and to fulfill his daily obligations."

Corbett, 191 N.E.3d at 338-39 (citation modified).

had actual notice and failed to register, that the defendant had the necessary awareness of that fact at the time he failed to register. Cf. United States v. Klotz, 500 F.2d 580, 581-582 (8th Cir. 1974) (under Federal law making it crime to “knowingly fail” to register for the draft, “criminal intent may be inferred from proof that the defendant possessed knowledge of an obligation under the military draft laws which he did not perform”). Nor is a defendant free to argue, “I forgot.” Mere forgetfulness is not a defense and does not negate the inference of conscious action. On the other hand, proof of serious mental disorders at the time of the crime -- for example, Alzheimer’s disease, dementia, or amnesia -- would be relevant to a fact finder’s evaluation whether a defendant knowingly failed to meet his obligations.

Id. at 341-42 (citation modified). The Court stated that the defendant’s “expert report described sufficiently serious mental disorders” and “could not be categorically excluded as irrelevant[.]” Id. at 343-44. The Court concluded that the defendant’s proffered expert opinion was different from an assertion that the defendant merely “forgot” to register and vacated the judgment of the trial court. See id. at 344.

In Dailey, 65 P.3d at 893-94, 896, the defendant, who had been convicted of three counts of failing to comply with the Alaska Sex Offender Registration Act, argued on appeal that the trial court erred in instructing the jury on the definition of “knowingly” in that the court failed to instruct the jury that “the State had to prove that he was aware that he had a duty to act.” The defendant’s argument stemmed from his position that the statutory scheme was “unconstitutionally vague” and that he lacked notice that it was a criminal offense to knowingly fail to file sworn verification forms. See id. at 894.²² The

²²The Court of Appeals of Alaska explained that the failure to register statute at issue, Alaska Stat. Ann. § 11.56.840(a), provided:

[A] person commits the crime of “failure to register as a sex offender” in the second degree if the person knowingly fails to “(1) register, (2) file the

“jury was instructed that, among other things, the State had to prove for each count that [the defendant] had ‘knowingly failed to file a sworn quarterly written verification.’” Id. at 895.

The Court of Appeals of Alaska stated that, “to convict [the defendant] of failure to file sworn written quarterly verifications, the State had to prove both that [the defendant] was aware of the circumstances giving rise to his duty to file sworn quarterly written verifications and that he knowingly refrained from performing that duty.” Id. The Court concluded “that the jury was not clearly instructed that the State had to prove that [the defendant] was aware of the circumstances giving rise to his duty to file signed and attested verifications[,]” but that the error in the jury instructions was harmless beyond a reasonable doubt. Id. at 896-97. The Court explained no reasonable juror could have found that the defendant was unaware of the duty to sign and attest to the information he provided in the quarterly verifications. See id. at 897. There is no daylight between the holding of the Court of Appeals of Alaska and our holding that to prove that a person knowingly failed to register, the State must prove that the person had notice of the duty or obligation to register and failed to do so.

written notice of change of address, (3) file the annual or quarterly written verification, or (4) supply all of the information required to be submitted under (1)-(3) of this subsection, *as required in [Alaska Stat. Ann. §] 12.63.010.*”

Dailey, 65 P.3d at 894 (footnote omitted). Alaska Stat. Ann. § 12.63.010 required sworn quarterly written verifications. See id. The defendant prepared quarterly verifications but refused to sign and attest that the information in the verifications was accurate. See id. at 893.

Citing State v. Garcia, 752 P.2d 34 (Ariz. Ct. App. 1987), Mr. Hammond contends that, under Lambert, prior notice of the duty to register is required “to pass constitutional muster” but that prior notice does not satisfy the express “knowledge” requirement in a “knowingly” failing to register statute.²³ Once more, Mr. Hammond’s reliance is misplaced. In Garcia, 752 P.2d at 35, the defendant pled guilty to the offense of failing to register as a sex offender and appealed his conviction. The defendant in Garcia, *id.*, contended “that he had no actual knowledge that he was required to register as a sex offender.” The Court of Appeals of Arizona concluded that it could find “nothing in defendant’s statements at the change of plea hearing or in the extended record that satisfie[d] the requirements of *Lambert* by showing that defendant was aware of his statutory duty to register.” *Id.* at 36. The Court reversed the conviction because the record did not “demonstrate that defendant had actual knowledge of the need to reregister as a sex offender or proof of the probability that he had knowledge of the requirement and thereafter failed to do so.” *Id.* at 37. Like the cases discussed above, Garcia is not applicable here. Garcia, *id.* at 35, does no more work than reiterating the principle set forth by the Supreme Court in Lambert, 355 U.S. at 229, that, “[w]here the duty to act arises only from a statute,

²³Mr. Hammond also cites a case from the Criminal Court of the City of New York, People v. Patterson, 185 Misc.2d 519 (N.Y. Crim. Ct. 2000), for the same proposition. In Patterson, *id.* at 535, the Court denied the defendant’s motion to dismiss a complaint charging him with the offense of failure to register as a sex offender. The Court found that the failure to register statute at issue was a strict liability statute and that, even though “the People d[id] not need to allege or prove that a sex offender charged with failure to register acted knowingly or intentionally[.]” to be convicted, a person must have been provided the statutorily mandated notice of the duty to register as a sex offender and “[s]uch notice is also likely required by due process of law” under Lambert. *Id.* at 526.

the accused's knowledge of the statutory duty must be established.”

E. Applying the Above Principles to this Case

Applying the above principles to this case, we conclude that the evidence adduced at trial established both that Mr. Hammond had notice that he was required to register on August 1, 2023, and that he knowingly failed to do so. As the Supreme Court of California explained in Barker, 96 P.3d at 511, “[f]orgetting presupposes knowledge.” Like the Supreme Court of California, we conclude that where a person contends that the duty to register “slipped my mind” or was forgotten, the person concedes that the person had knowledge of the duty to register. Having knowledge of the duty to register includes having the duty to remember and comply with the obligation. As the Supreme Court of California put it, “[a]s is the case with any legal obligation, inherent in that statutory mandate is the duty not to forget to perform it.” Id. at 512.

We are mindful that as an example of his position, Mr. Hammond points out that in Garnett v. State, 332 Md. 571, 578, 632 A.2d 797, 800 (1993), we stated that “[t]he requirement that an accused have acted with a culpable mental state is an axiom of criminal jurisprudence[,]” which he contends means that “a central component to the guilty mind axiom” is “the *simultaneity* of the guilty mind with the guilty act.” (Citations omitted). This does not change our analysis. Once it is established that a person is on notice of the duty to register, absent proof of an intervening medical cause, diagnosed and not voluntarily induced, that deprived the individual of knowledge, awareness, or consciousness of the duty to act, it can be inferred that the person knowingly failed to register. The State is not required to prove by direct evidence that, on the required

registration date, a person knew of the obligation to register.

In this case, Mr. Hammond did not contend that a medically diagnosed condition deprived him of the ability to know or be aware of the duty to register. The evidence did not come close to establishing that. Mr. Hammond did not introduce any evidence that he suffered from depression or any other medical condition that was so severe that it deprived him of the knowledge, awareness, or consciousness of the duty to register. When asked what happened or why he did not register, Mr. Hammond testified: “I forgot.” Although Mr. Hammond testified that he was going through mental health problems with depression and had experienced deaths in the family, and that a family member’s funeral was held on the date that he was scheduled to register, which we agree would indeed be upsetting events, Mr. Hammond made no claim that he lacked the ability to know or be aware or conscious of the registration date.

To be sure, both Mr. Hammond and his sister, Ms. Holt, testified that, due to recent events in the family, Mr. Hammond had been experiencing mental health problems or depression, and he forgot to register. The question is not whether Mr. Hammond was experiencing distressing events in his life or an exacerbation of his depression and forgot to register. Given that the purpose of MSORA is to protect the public, the standard must necessarily be more stringent. That said, we agree with the Appellate Court that a trial court is allowed to take into account a defendant’s alleged forgetfulness “as mitigation at sentencing, as the [circuit] court did here.” Hammond, 268 Md. App. at 505, 351 A.3d at 78. A trial court can customize a sentence to address both past and future mental health conditions that may hinder a person’s ability to comply with CP § 11-721 but do not rise

to the level of an involuntary medical condition that divests the person of the ability to know, be aware, or conscious of the obligation to register.

F. Rule of Lenity

“When a court construes a criminal statute, it may invoke a principle known as the ‘rule of lenity’ when the statute is open to more than one interpretation and the court is otherwise unable to determine which interpretation was intended by the [General Assembly].” Sec’y, Dep’t of Pub. Safety and Corr. Servs. v. Fenton, 491 Md. 305, 328, 339 A.3d 908, 921 (2025) (citation modified). We have held that when “a court[,] using the tools of statutory construction[,]” is unable to determine the General Assembly’s intent, the rule of lenity may be invoked as “a tiebreaker that favors [the] defendant[.]” Clark v. State, 473 Md. 607, 622, 251 A.3d 1144, 1152 (2021) (citation omitted). Recently when interpreting SORNA, the United States Court of Appeals for the Fourth Circuit held that the rule of lenity “applies only when a criminal statute contains a grievous ambiguity or uncertainty, and only if, after seizing everything from which aid can be derived, the Court can make no more than a guess as to what Congress intended.” Kokinda, 146 F.4th at 418 (citation modified).

The rule of lenity does not apply here. The statute’s plain language and purpose are unambiguous. We have ascertained the General Assembly’s intent with respect to the meaning of “knowingly” in CP § 11-721(a) by textual analysis, and the statute’s legislative history is consistent with the outcome that we reach—that, where a defendant received notice of the obligation to register and failed to do so, a claim that the defendant merely forgot to register does not serve as a defense to the charge of knowingly failing to register

under CP § 11-721(a). Because applying the traditional rules of statutory construction has resulted in the unambiguous construction of CP § 11-721(a), the rule of lenity does not apply. See Clark, 473 Md. at 622, 251 A.3d at 1152; see also Oglesby v. State, 441 Md. 673, 681, 109 A.3d 1147, 1151 (2015).

For the reasons stated herein, we affirm the judgment of the Appellate Court.

**JUDGMENT OF THE APPELLATE COURT OF
MARYLAND AFFIRMED. PETITIONER TO
PAY COSTS.**