

Circuit Court for Cecil County  
Case No. C-07-CR-21-000195

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND\*\*

No. 0002

September Term, 2022

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JESSE DAVID COGDELL

v.

STATE OF MARYLAND

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Zic,  
Tang,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Zic, J.

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Filed: February 15, 2023

\* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

\*\* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Jesse Cogdell, appellant, was convicted by a jury in the Circuit Court for Cecil County of possession with intent to distribute cocaine, possession of Belbuca, possession of fentanyl, possession of methamphetamine, possession of testosterone gel, two counts of possession of a firearm by a disqualified person, possession of ammunition by a disqualified person, destruction of physical evidence, and possession with intent to use drug paraphernalia. Mr. Cogdell thereafter filed a motion for a new trial, which was denied. The court ultimately sentenced Mr. Cogdell to a total term of seven years' imprisonment. In this appeal, Mr. Cogdell presents three questions for our review:

1. Did the trial court abuse [its] discretion by recognizing Corporal Gregory Smith [of the Cecil County Sheriff's Office] as an expert witness [in controlled dangerous substances]?
2. [Was] the evidence [adduced at trial] legally insufficient to sustain [Mr. Cogdell's] convictions?
3. Did the [trial court] abuse [its] discretion by denying Mr. Cogdell's motion for a new trial?

For the reasons that follow, we answer all questions in the negative and affirm the judgments of the circuit court.

### **BACKGROUND**

In the early morning hours of January 28, 2021, several police officers with the Cecil County Sheriff's Office executed a search warrant at Mr. Cogdell's residence. Mr. Cogdell was home at the time and was taken into custody prior to the search. Upon searching the residence, the police discovered a loaded handgun, a shotgun, loose ammunition, drug paraphernalia, and various quantities of cocaine, fentanyl, Belbuca,

methamphetamine, and testosterone gel. A search of Mr. Cogdell’s person revealed \$793.00 in cash and a small bag of methamphetamine.

Mr. Cogdell was thereafter arrested and charged with twenty counts: possession with intent to distribute cocaine (Count 1); possession with intent to distribute Belbuca (Count 2); possession of heroin, fentanyl, cocaine, methamphetamine, Belbuca, and testosterone gel (Counts 3, 4, 5, 6, 7, and 8); two counts of possession of a shotgun or firearm by a disqualified person (Counts 9 and 15); three counts of possession of a shotgun or firearm after having been convicted of a felony or crime of violence (Counts 10, 14, and 16); two counts of possession of a firearm in relation to a drug trafficking crime (Counts 11 and 13); wearing, carrying, or transporting a firearm in relation to a drug trafficking crime (Count 12); possession of ammunition by a disqualified person (Count 17); destruction of physical evidence (Count 18); failure to obey a lawful order (Count 19); and possession of drug paraphernalia (Count 20).

***Trial Testimony***

At trial, Cecil County Sheriff’s Deputy Brian Bravo testified that, in January 2021, he was involved in an investigation into Mr. Cogdell. Deputy Bravo testified that during the investigation, he developed an address associated with Mr. Cogdell and that he ultimately obtained a search warrant for that address.

On January 28, 2021, Deputy Bravo and several other officers went to Mr. Cogdell’s address to execute the search warrant. Deputy Bravo testified that one of the officers used the loudspeaker on his patrol vehicle to announce their presence and to order the occupants to exit the residence. Shortly thereafter, two female occupants, later

identified as Mr. Cogdell’s girlfriend and Mr. Cogdell’s mother, exited the residence. Upon making contact with the officers, the female occupants informed the officers that Mr. Cogdell and his young son were still inside. Additional announcements were made, but Mr. Cogdell did not respond.

Deputy Bravo testified that, while he and the other officers were attempting to get Mr. Cogdell out of the residence, he observed Mr. Cogdell walking back and forth between a bedroom, which Deputy Bravo testified belonged to Mr. Cogdell, and a bathroom that was across the hallway from Mr. Cogdell’s bedroom. Deputy Bravo testified that he also observed Mr. Cogdell “placing items in the toilet.” Several minutes later, Mr. Cogdell exited the residence and was taken into custody. Deputy Bravo testified that he subsequently searched Mr. Cogdell’s person and recovered approximately \$793.00 in cash and “a small bag with a clear crystal-like substance.” That substance was later tested and discovered to be methamphetamine.

After taking Mr. Cogdell into custody, Deputy Bravo searched the residence. From Mr. Cogdell’s bedroom, Deputy Bravo recovered nine packages of testosterone gel, 77 packets of Belbuca,<sup>1</sup> one bag of crack cocaine, one bag of methamphetamine, and three unused .45 caliber rounds of ammunition. Deputy Bravo also recovered, from Mr. Cogdell’s bedroom, two digital scales, unused packaging materials, plastic bags, trace amounts of fentanyl, a cut straw with white residue, and an article of mail addressed to

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<sup>1</sup> Deputy Bravo testified that Belbuca “is a sublingual based medication that is used to supplement the use of heroin, so someone who is going through withdrawals, [it’s] used to ease their symptoms.” Police documents and testimony conflictingly indicate that Mr. Cogdell possessed either 77 or 78 packets of Belbuca.

Mr. Cogdell at the address searched. In Mr. Cogdell’s bedroom closet, Deputy Bravo found a loaded .32 caliber handgun, which was sitting in a laundry basket with some loose clothing. In the bathroom directly across the hall from Mr. Cogdell’s bedroom, Deputy Bravo found 23 bags of crack cocaine in the toilet.<sup>2</sup> In the family room, Deputy Bravo found a safe that contained a shotgun. Deputy Bravo also recovered five bags of fentanyl from somewhere inside the residence.

Deputy Bravo testified that, following the search, Mr. Cogdell was brought back to the Sheriff’s Office and interrogated. During that interrogation, Mr. Cogdell stated that he did not have a prescription for the Belbuca or the testosterone gel that was found in his bedroom. Mr. Cogdell also stated that he used heroin regularly and that he used the Belbuca “to kind of supplement” his heroin use.

Cecil County Sheriff’s Corporal Gregory Smith testified as an expert in the field of controlled dangerous substances. He stated that he had reviewed the evidence in the case, including the bags of crack cocaine found in the toilet and the Belbuca found in Mr. Cogdell’s bedroom. Regarding the bags of crack cocaine, Corporal Smith noted that the bags were all approximately the same weight and that each bag had a street value of \$20.00. Corporal Smith also noted the lack of paraphernalia, such as a pipe, that is typically used to ingest the crack cocaine. Corporal Smith opined that those circumstances suggested that Mr. Cogdell had possessed the crack cocaine with the intent to distribute. Corporal Smith provided a similar opinion regarding the Belbuca.

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<sup>2</sup> Likewise, police documents and testimony indicate police recovered 22 or 23 bags of crack cocaine from the bathroom.

Mr. Cogdell testified in his own defense. He stated that, prior to his arrest, he had resided at the address searched on January 28, 2021 with his mother, wife, and son. He testified that, on the day of the search, he was in bed “just getting high.” Mr. Cogdell explained that he had been using illegal drugs “[o]ff and on for ten years.” He stated that he usually would purchase a large quantity of drugs and then “break it down” into smaller amounts to regulate his intake and ensure he was “only holding a little bit.” He testified that, at the time of the search, he was using heroin and fentanyl, which he supplemented with Belbuca to ease any withdrawal symptoms. He added that he had recently been injured in a car accident and was taking the drugs to help alleviate the pain. Mr. Cogdell testified that the money the police found on his person came from an economic stimulus payment, unemployment compensation, and his employment at a construction company. Mr. Cogdell testified that he did not know there was a handgun in his bedroom.

***Corporal Smith’s Qualification as an Expert Witness***

Prior to being qualified as an expert witness, Corporal Smith testified about his experience in the field of controlled dangerous substances. He stated that he had been a member of the Cecil County Drug Task Force since 2014 and that his responsibilities included conducting investigations of drug traffickers and distributors working in and around Cecil County. He testified that he had received extensive training in controlled dangerous substances upon becoming a member of the task force and that he had received ongoing training since that time. Corporal Smith further testified that, during his law enforcement career, he had made “[o]ver one hundred” drug-related arrests and been a part of over 300 drug investigations, many of which involved cocaine, heroin, fentanyl,

and/or methamphetamine. He testified that he had interviewed “hundreds” of drug users and “at least fifty” drug sellers about packaging, selling, and using drugs. He stated that he had worked undercover as a drug buyer and that he had worked with “many” informants who were drug purchasers. He testified that he had been declared an expert in the distribution of controlled dangerous substances “more than ten times” in Cecil County. Regarding his experience with Belbuca, Corporal Smith testified that, although he was not familiar with that substance, he had seen “Suboxone on countless occasions.” Corporal Smith explained that Suboxone and Belbuca have “the same active ingredient, which is Buprenorphine.”

Following that testimony, the State asked that Corporal Smith be declared “an expert in the field of controlled dangerous substances, including identification, packaging, and distribution of those substances, and determining whether an individual possessed them with the intent to distribut[e].” After defense counsel objected, the trial court asked defense counsel if he wanted to *voir dire* the witness. Defense counsel declined and stated that he was “just objecting . . . on the issue of no foundation.” The court overruled the objection and admitted Corporal Smith as an expert “in the field noted.”

### ***Motion for Judgment of Acquittal and Verdict***

At the conclusion of the State’s case, Mr. Cogdell moved for judgment of acquittal on all counts. The trial court granted the motion on the charge of possession of heroin, the four charges related to the possession of the shotgun, and the charge of failure to obey a lawful order. The jury ultimately convicted Mr. Cogdell of possession with intent to

distribute cocaine, possession of Belbuca, possession of fentanyl, possession of methamphetamine, possession of testosterone gel, two counts of possession of a firearm by a disqualified person, possession of ammunition by a disqualified person, destruction of physical evidence, and possession with intent to use drug paraphernalia.

***Motion for New Trial***

The jury’s verdict was returned on October 27, 2021. On or about November 10, 2021, Mr. Cogdell filed a motion for new trial. Mr. Cogdell raised the following issues, which we quote from his motion:

- One of the jurors appeared to have fallen asleep during my trial.
- The prosecutor . . . misquoted my testimony twice in her closing argument. This ultimately could have impacted the jury’s decision to render a guilty verdict on multiple charges.
- A witness for the defense that was previously unreachable and [whose] whereabouts were unknown has surfaced and is willing to testify.

On November 16, 2021, the circuit court entered Mr. Cogdell’s motion in the record. On the front of the motion, the court had stamped the word “denied.” The stamp was signed by the court and dated November 16, 2021.

On March 1, 2022, at Mr. Cogdell’s sentencing hearing, the court addressed the motion:

As far as house cleaning goes, I do note that you, on your own, had written a [m]otion for a [n]ew [t]rial alleging a juror fell asleep and there was also a[n] unavailable witness but [the] court finds no evidence to support either one, so the court denies the [m]otion for a [n]ew [t]rial.



Mr. Cogdell was then sentenced to a total term of seven years' imprisonment.

This appeal followed.

## DISCUSSION

### **I. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY RECOGNIZING CORPORAL SMITH AS AN EXPERT WITNESS IN THE FIELD OF CONTROLLED DANGEROUS SUBSTANCES.**

Mr. Cogdell first claims that the trial court abused its discretion in permitting Corporal Smith to testify as an expert in the field of controlled dangerous substances. Mr. Cogdell argues that Corporal Smith was not qualified as an expert in that field. Mr. Cogdell contends that, while Corporal Smith provided extensive testimony about his training and work in the field of narcotics investigation, he acknowledged that his experience with Belbuca was limited.

The State contends that Corporal Smith's testimony regarding his experience as a police officer was more than sufficient to qualify him as an expert in the field of controlled dangerous substances. The State argues that Corporal Smith's limited experience with Belbuca was countered by his extensive experience with Suboxone, which has the same active ingredient as Belbuca. The State maintains, therefore, that the trial court did not abuse its discretion in qualifying Corporal Smith as an expert witness.

#### **A. Standard of Review**

“[T]he admissibility of expert testimony is a matter largely within the discretion of the trial court, and its action in admitting or excluding such testimony will seldom constitute ground for reversal.” *Rochkind v. Stevenson*, 471 Md. 1, 10 (2020) (citations and quotations omitted). We therefore review a trial court's decision to admit expert

testimony for abuse of discretion. *State v. Matthews*, 479 Md. 278, 305 (2022). To constitute an abuse of discretion, “the trial court’s decision must be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Id.* (citations and quotations omitted).

## **B. Analysis**

Maryland Rule 5-702 states that “[e]xpert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue.” Before a trial court can admit expert testimony, the court must determine, among other things, “whether the witness is qualified as an expert by knowledge, skill, experience, training, or education.” *Id.* In making that determination, “a trial court should consider whether the expert has ‘special knowledge of the subject on which he is to testify that he can give the jury assistance in solving a problem for which their equipment of average knowledge is inadequate.’” *Wantz v. Afzal*, 197 Md. App. 675, 683 (2011) (citing *Radman v. Harold*, 279 Md. 167, 169 (1977)). “The trial court is free to consider any aspect of a witness’s background in determining whether the witness is sufficiently familiar with the subject to render an expert opinion, including the witness’s formal education, professional training, personal observations, and actual experience.” *Stevenson v. State*, 222 Md. App. 118, 136 (2015) (quoting *Massie v. State*, 349 Md. 834, 851 (1998)). An expert’s knowledge “may be derived from observation or experience, standard books, maps of recognized authority, or any other reliable sources, including the experiments and reasoning of others, communicated by personal association or through books or other sources.”

*Wantz*, 197 Md. App. at 683 (citations and quotations omitted). “And [t]o qualify as an expert, one need only possess such skill, knowledge, or experience in that field or calling as to make it appear that [the] opinion or inference will probably aid the trier [of fact] in his search for the truth.” *Stevenson*, 222 Md. App. at 136 (citations and quotations omitted).

We hold that the trial court did not abuse its discretion in admitting Corporal Smith as an expert witness. By way of his testimony, Corporal Smith established that he had been a member of the Cecil County Drug Task Force since 2014, had received extensive training in controlled dangerous substances, had been involved in hundreds of drug-related investigations and arrests, and had been declared an expert in the distribution of controlled dangerous substances multiple times. He further established that he had interviewed hundreds of drug users and sellers regarding the packaging, selling, and using of drugs, and that he had worked undercover and with drug informants to purchase controlled dangerous substances. He testified that he had extensive experience with cocaine, heroin, fentanyl, and methamphetamine and that, although he had limited experience with Belbuca, he was quite familiar with Suboxone, which had the same active ingredient, Buprenorphine, as Belbuca.

From that, the trial court had ample evidence to determine that Corporal Smith was qualified as an expert by knowledge, skill experience, training or education. Corporal Smith clearly possessed special knowledge of controlled dangerous substances, and he was, based on his background, sufficiently familiar with controlled dangerous substances to make it appear that his opinion would aid the trier of fact in determining a

fact in issue, namely, whether Mr. Cogdell possessed the crack cocaine and Belbuca with the intent to distribute. That Corporal Smith had limited experience with Belbuca did not diminish his expertise, and his knowledge of a similar drug, Suboxone, constituted a sufficient basis for the court to accept his expert opinion on Belbuca. At the very least, we cannot say that the court’s decision was “well removed from any center mark” or “beyond the fringe” of what we deem to be minimally acceptable. *See Matthews*, 479 Md. at 305.

## **II. THE EVIDENCE WAS SUFFICIENT TO SUSTAIN ALL OF MR. COGDELL’S CONVICTIONS.**

Mr. Cogdell next contends that the evidence adduced at trial was insufficient to sustain his conviction of possession with intent to distribute cocaine, his four convictions of possession of controlled dangerous substances, and his three convictions of possession of a firearm and ammunition.<sup>3</sup> Because Mr. Cogdell raises distinct arguments for the various convictions he challenges, we shall address each argument separately.

### **A. Standard of Review**

“The standard for appellate review of evidentiary sufficiency is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Scriber v. State*, 236 Md. App. 332, 344 (2018) (quoting *Darling v. State*, 232 Md. App. 430, 465, *cert. denied*, 454 Md. 655 (2017)) (emphasis in original). “When making this

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<sup>3</sup> Mr. Cogdell did not challenge the convictions of possession of cocaine (which merged into possession with intent to distribute cocaine), possession with intent to use drug paraphernalia, or the destruction of physical evidence.

determination, the appellate court is not required to determine ‘whether *it* believes that the evidence at trial established guilt beyond a reasonable doubt.’” *Roes v. State*, 236 Md. App. 569, 583 (2018) (quoting *State v. Manion*, 442 Md. 419, 431 (2015)) (emphasis in original). “This is because weighing the credibility of witnesses and resolving conflicts in the evidence are matters entrusted to the sound discretion of the trier of fact.” *Scriber*, 236 Md. App. at 344 (citations omitted). “Thus, the limited question before an appellate court is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.” *Id.* (emphasis in original).

## **B. Analysis**

### **1. The evidence was sufficient to convict Mr. Cogdell for possession with intent to distribute cocaine.**

Mr. Cogdell first challenges his conviction of possession with intent to distribute cocaine. He asserts that the State failed to show that he intended to distribute the drug. Mr. Cogdell highlights his testimony in which he established that he was a drug user and that he purchased drugs in large quantities and then separated them into smaller quantities to regulate his drug intake. Mr. Cogdell claims that there was no direct evidence of drug sales, “such as ledgers or cell phone communications.”

The State counters that the jury could properly infer intent based on the manner in which the cocaine was packaged and Corporal Smith’s testimony. The State maintains that the jury did not have to accept Mr. Cogdell’s testimony.

Section 5-602 of the Criminal Law Article states that a person may not “distribute or dispense a controlled dangerous substance” or “possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance.” Md. Code Ann., Crim. Law § 5-602 (2002, 2021 Repl. Vol.). Regarding an inference of intent to distribute, this Court has held that “[i]n Maryland, no specific quantity of drugs has been delineated that distinguishes between a quantity from which one can infer and a quantity from which one cannot make such an inference.” *Purnell v. State*, 171 Md. App. 582, 612 (2006). Moreover, “[i]ntent to distribute controlled dangerous substances is seldom proved directly, but is more often found by drawing inferences from facts proved which reasonably indicate under all the circumstances the existence of the required intent.” *Id.* (citations and quotations omitted).

We hold that the evidence adduced at trial was sufficient to show that Mr. Cogdell possessed the cocaine with the intent to distribute. That evidence established that the cocaine had been individually packaged in 24 separate bags, with each bag being approximately the same weight and having the same street value. *See Stuckey v. State*, 141 Md. App. 143, 174 (2001) (holding that the evidence was sufficient to sustain defendant’s convictions of possession with intent, where “the narcotics were packaged in a baggie containing fifty vials of crack cocaine and fifteen small packets of marijuana.”). One of the bags was found in Mr. Cogdell’s bedroom, where the police also recovered additional unused bags and two digital scales. Corporal Smith, who was qualified as an expert in the sale and distribution of controlled dangerous substances, testified that the

manner in which the drugs were packaged was consistent with an intent to distribute. Corporal Smith testified that the lack of certain paraphernalia for crack cocaine use, such as a pipe, also suggested that the drugs were intended for distribution.

From that evidence, a reasonable inference can be drawn that Mr. Cogdell possessed the cocaine with the intent to distribute. No additional evidence, direct or otherwise, was necessary to establish that element. That Mr. Cogdell provided testimony indicating that he possessed the cocaine for personal use is irrelevant, as the jury was free to assign to that testimony whatever weight it deemed appropriate.

**2. The evidence was sufficient to convict Mr. Cogdell for possession of Belbuca, fentanyl, methamphetamine, and testosterone gel.**

Mr. Cogdell next challenges his convictions of possession of Belbuca, possession of fentanyl, possession of methamphetamine, and possession of testosterone gel. He argues that the State failed to show that he possessed those items. He maintains that, “other than one envelope addressed to [him] at the residence and his presence in the house at the time of the search, no other evidence linked him to the Belbuca, [f]entanyl, or [t]estosterone gel.”

The State contends that the evidence was sufficient to show that Mr. Cogdell possessed the substances at issue. The State notes that the substances were recovered from either Mr. Cogdell’s residence or his person, that Mr. Cogdell was in his residence just before the substances were found, and that Mr. Cogdell later told the police that he used heroin and Belbuca and that he did not have a prescription for the Belbuca or the

testosterone. The State also notes that Mr. Cogdell testified that he lived at the residence and that he used drugs, including heroin, fentanyl, and Belbuca.

“[I]n order to support a conviction for a possessory offense, the ‘evidence must show directly or support a rational inference that the accused did in fact exercise some dominion or control over the prohibited [item.]’” *Jefferson v. State*, 194 Md. App. 190, 214 (2010) (citations omitted). “‘Control’ is defined as ‘the exercise of a restraining or directing influence over the thing allegedly possessed.’” *Williams v. State*, 231 Md. App. 156, 200 (2016) (citations omitted). “Because a person ‘ordinarily would not be deemed to exercise “dominion or control” over an object about which he is unaware,’ knowledge of its presence ‘is normally a prerequisite to exercising dominion and control’ and, hence, possession.” *Mills v. State*, 239 Md. App. 258, 275 (2018) (quoting *Dawkins v. State*, 313 Md. 638, 649 (1988)). Thus, to prove possession, the State must establish “that the accused knew of both the presence and the general character or illicit nature of the substance.” *Handy v. State*, 175 Md. App. 538, 563 (2007) (citations and quotations omitted).

That said, “[c]ontraband need not be found on a defendant’s person in order to establish possession.” *Id.* “Rather, a person may have actual or constructive possession of the [contraband], and the possession may be either exclusive or joint in nature.” *Moye v. State*, 369 Md. 2, 14 (2002). When considering whether the evidence is sufficient to establish constructive possession, we generally look at the following factors: 1) the proximity between the defendant and the contraband; 2) whether the contraband was within the view or knowledge of the defendant; 3) whether the defendant had ownership



of or some possessory right in the location where the contraband was found; and 4) whether a reasonable inference can be drawn that the defendant was participating in the mutual use and enjoyment of the contraband. *Cerrato-Molina v. State*, 223 Md. App. 329, 335 (2015) (citing *Folk v. State*, 11 Md. App. 508, 518 (1971)). We also consider the nature of the premises where the contraband is found and whether there are circumstances indicating a common criminal enterprise. *Nicholson v. State*, 239 Md. App. 228, 253 (2018). Possession is not determined by any one factor or set of factors but rather “by examining the facts and circumstances of each case.” *Smith v. State*, 415 Md. 174, 198 (2010).

We hold that the evidence adduced at trial was sufficient to show that Mr. Cogdell possessed the Belbuca, fentanyl, methamphetamine, and testosterone gel. One bag of methamphetamine was found on Mr. Cogdell’s person, while the other was found in his bedroom. The Belbuca and testosterone gel were also found in Mr. Cogdell’s bedroom, and Mr. Cogdell was seen in his bedroom just prior to the discovery of the drugs. Mr. Cogdell admitted that he lived at the residence, that he used the Belbuca, and that he did not have a prescription for the Belbuca or the testosterone. As for the fentanyl, although it is unclear from the record where in the residence it was located, Mr. Cogdell admitted that he was a fentanyl user and that he had been using fentanyl to “get high” when the police arrived. The police also found trace amounts of fentanyl in Mr. Cogdell’s bedroom.

From that evidence, a reasonable inference can be drawn that Mr. Cogdell had actual or constructive possession of the controlled dangerous substances found on his

person and in his bedroom. As such, the evidence was sufficient to sustain Mr. Cogdell's convictions of possession of Belbuca, possession of fentanyl, possession of methamphetamine, and possession of testosterone gel.

**3. The evidence was sufficient to convict Mr. Cogdell for possession of a firearm and ammunition by a disqualified person.**

Mr. Cogdell next challenges his convictions for possession of a firearm by a disqualified person and possession of ammunition by a disqualified person. Mr. Cogdell contends that the State failed to prove that he possessed the firearm, given his testimony that he did not know that the firearm was in the closet of his bedroom. Mr. Cogdell contends that the State also failed to prove that he possessed the ammunition because Deputy Bravo “did not specify where these rounds were located or whether they were in plain view.”

The State asserts that the evidence was sufficient. The State notes that the firearm and ammunition were seized from Mr. Cogdell's home and bedroom where he was observed attempting to flush bags of crack cocaine down the toilet.

We hold that the evidence adduced at trial was sufficient to show that Mr. Cogdell had constructive possession of the firearm and ammunition. Per Deputy Bravo's testimony, both the ammunition and the firearm were found in Mr. Cogdell's bedroom. The firearm, which was located in the bedroom's closet, did not appear to have been hidden, but rather was sitting in a laundry basket with some loose clothing. Just prior to the discovery of the firearm and ammunition, Mr. Cogdell was observed moving around in his bedroom, where he had stored large quantities of various controlled dangerous

substances. From that, the jury could reasonably infer that Mr. Cogdell knew about, and thus possessed, the firearm found in his closet and the ammunition found in his bedroom.

**III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN DENYING MR. COGDELL’S MOTION FOR A NEW TRIAL.**

Mr. Cogdell’s final claim is that the trial court abused its discretion in denying his motion for a new trial. As noted, Mr. Cogdell’s motion included three arguments: that one of the jurors may have fallen asleep during trial; that the prosecutor misquoted Mr. Cogdell’s testimony during closing argument; and that a previously unavailable witness was willing to testify. He asserts that the court failed to exercise discretion in ruling on his motion. He relies on the court’s comments from the sentencing hearing, during which the court stated: “I do note that you, on your own, had written a motion for a [n]ew [t]rial alleging a juror fell asleep and there was also a[n] unavailable witness but the court finds no evidence to support either one, so the court denies the [m]otion for a [n]ew [t]rial.” He contends that, without an evidentiary hearing, the court’s conclusion that there was “no evidence” to support his first and third claims is untenable. He also contends that the court erred in failing to address his second claim regarding closing argument.

The State contends that the trial court properly exercised its discretion in denying Mr. Cogdell’s motion. The State maintains that the court was not required to hold a hearing or state its reasons for denying the motion. The State also maintains that it was not untenable for the court to conclude, based on the record before it, that Mr. Cogdell’s motion lacked evidentiary support.

Maryland Rule 4-331(a) provides that, “[o]n motion of the defendant filed within ten days after a verdict, the court, in the interest of justice, may order a new trial.” A court’s decision to grant a new trial pursuant to Rule 4-331(a) is ordinarily reviewed for abuse of discretion. *Williams v. State*, 462 Md. 335, 344 (2019). “To reverse the denial of a new trial on appeal, when utilizing the abuse of discretion standard, the reviewing court must find that the degree of probable prejudice [was] so great that it was an abuse of discretion to deny a new trial.” *Id.* at 345 (citations and quotations omitted).

We hold that the trial court did not abuse its discretion in denying Mr. Cogdell’s motion for new trial. The record shows that the court considered and denied the motion in November 2021, well before the court issued its statements regarding the motion at Mr. Cogdell’s sentencing hearing. In denying the motion, the court was under no obligation to hold a hearing or engage in any fact-finding.<sup>4</sup> That the court subsequently discussed the matter at the sentencing hearing does not mean that the court was required to engage in additional fact-finding, nor does it indicate that the court failed to exercise its discretion. Again, the court had already exercised its discretion when it denied the motion in November 2021.

To the extent that the trial court’s brief, *sua sponte* discussion of the motion during the sentencing hearing constituted a ruling on the matter, we are not persuaded that the court abused its discretion. Mr. Cogdell presented no evidence or argument to support any of his claims. Thus, given the trial court’s familiarity with the trial record, the court

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<sup>4</sup> Maryland Rule 4-331 does require a hearing under certain circumstances. Md. Rule 4-331(f). Those circumstances are not present here.

could properly conclude that Mr. Cogdell’s first and third claims lacked evidentiary support. As for the second claim regarding comments made by the prosecutor during closing argument, Mr. Cogdell should have brought the matter to the attention of the trial court at the time the comments were made. Nevertheless, the court did not need to make any on-the-record findings to deny that claim, and the court’s refusal to expressly address that claim is not evidence that the court failed to exercise its discretion in considering that claim on the merits. As with his other two claims, Mr. Cogdell provided no evidence or argument to support that claim.

**JUDGMENTS OF THE CIRCUIT COURT  
FOR CECIL COUNTY AFFIRMED; COSTS  
TO BE PAID BY APPELLANT.**