

Circuit Court for Montgomery County
Case No.: 136864C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 86

September Term, 2022

CRISTIAN I. FUENTES-HERNANDEZ

v.

STATE OF MARYLAND

Nazarian,
Ripken,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 28, 2022

*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.

Following a bench trial in the Circuit Court for Montgomery County, Cristian I. Fuentes-Hernandez, appellant, was convicted of first-degree rape, home invasion, sexual abuse of a minor, and two counts of second-degree rape. On appeal, Fuentes-Hernandez asserts that the trial court erred by accepting his jury trial waiver without informing him about the possibility of a hung jury. For the following reasons, we shall affirm.

A defendant may elect to waive their constitutional right to a jury trial and instead be tried by the court. *Aguilera v. State*, 193 Md. App. 426, 431 (2010). To be effective, however, that waiver must be knowing and voluntary. *Id.* Fuentes-Hernandez challenges only the knowledge requirement.

“Knowledge,” in this context, means “acquaintance” with the principles of a jury, and “knowingly” means acting consciously or intentionally in waiving the right to a jury. *Walker v. State*, 406 Md. 369, 379 (2008). A defendant’s knowledge need not be “full,” “complete,” or “entire.” *Id.* Instead, a defendant must only have ““*some knowledge* of the jury[-]trial right before being allowed to waive it.”” *State v. Bell*, 351 Md. 709, 725 (1998) (*quoting State v. Hall*, 321 Md. 178, 182–83 (1990)).

Further, because there is no fixed litany before a defendant waives their right to a jury trial, whether a “waiver is valid depends upon the facts and totality of the circumstances of each case.” *Boulden v. State*, 414 Md. 284, 295 (2010) (quotation marks and citation omitted). But generally, a defendant had “some knowledge” of the jury-trial right if the record shows they knew (1) they were presumed to be innocent and could not be convicted unless the State persuaded the trier of fact beyond a reasonable doubt of their

guilt, and (2) that if they did not waive a jury trial, their case would be tried by a jury of 12 persons. *See Walker*, 406 Md. at 385.

The record here establishes that Fuentes-Hernandez relinquished his right to a jury trial knowingly. Fuentes-Hernandez chose to waive his jury trial right “after much discussion” with his two attorneys the day before trial. The court then explained that, if Fuentes-Hernandez did not waive a jury trial, his case would be tried by a jury of “12 citizens . . . in Montgomery County[.]” It further explained that Fuentes-Hernandez was presumed to be innocent and could not be convicted unless the State persuaded the trier of fact beyond a reasonable doubt of his guilt. The court added that Fuentes-Hernandez would be able to participate in the jury-selection process and that the jury’s verdict “would have to be unanimous.” The court also confirmed that Fuentes-Hernandez was able to understand its questions and explanations via an interpreter. Finally, the court gave Fuentes-Hernandez the opportunity to ask any questions of the court or his attorneys. Only then did the court ask him whether he wanted to waive his jury trial right. Fuentes-Hernandez confirmed he did, and the court expressly found on the record that Fuentes-Hernandez had waived his constitutional right to a jury trial “knowingly and voluntarily.” Therefore, the record indicates that Fuentes-Hernandez had “some knowledge” of the jury-trial right before he was allowed to waive it. Consequently, the circuit court did not err by accepting Fuentes-Hernandez’s waiver.

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