

Circuit Court for Worcester County
Case No. C-23-CR-19-000294

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 103

September Term, 2021

LARON JEFFERY COLLICK

v.

STATE OF MARYLAND

Kehoe,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 31, 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 not guilty plea upon an agreed statement of facts in the Circuit Court for Worcester County, Laron Jeffery Collick, appellant, was convicted of possession of cocaine with intent to distribute. On appeal, he contends that the court abused its discretion in failing to preclude the admission of certain evidence as a remedy for the State's failure to comply with its discovery obligations. For the reasons that follow, we shall affirm the judgment of the circuit court.

Prior to trial, appellant filed a motion to dismiss, or in the alternative to prohibit the introduction of the forensic chemist's report and several incriminating calls that he made while in jail, on the grounds that the State had failed to timely disclose those materials in discovery. At the hearing on that motion, defense counsel indicated that he had not learned the name of the forensic chemist and the results of the chemical analysis until September 18, 2020, even though the report had been issued approximately two months earlier. Similarly, defense counsel indicated that the State had not disclosed the existence of the jail calls until September 18, 2020, and that he had not received the actual recordings of those calls until September 21, 2020. At that point, the trial was scheduled for October 8, 2020. With respect to the chemist's report, the prosecutor acknowledged that it had not been timely provided, which the prosecutor informed the court was due to his not having been sufficiently prepared. As to the jail calls, the prosecutor stated that he did not remember exactly when they came into his possession but that he did not listen to them and learn that they had evidentiary value until August 13, 2020, approximately one month before they were disclosed.

The court determined that the State had violated its discovery obligations and acknowledged that it had previously granted a continuance as a sanction when the State failed to make its initial discovery disclosure within the 30-day window required under the discovery rules.¹ Nevertheless, after hearing from counsel it ultimately found that the violations were not willful and that the materials had not been withheld for an improper purpose. It further found that appellant had not identified any specific prejudice that could not be cured with a continuance. Specifically, the court noted that any surprise with respect to the jail calls was lessened by the fact appellant had made the calls himself, and was thus presumably aware of their contents, and that appellant had not demonstrated how the new evidence would inalterably affect his trial strategy. Therefore, the court declined to dismiss the case or exclude the evidence as requested by appellant. Instead, it offered the parties the opportunity to agree on a new trial date to give appellant sufficient time to formulate a new defense theory of the case. After the parties conferred, the court postponed the trial date from October 8, 2020 to November 9, 2020.

On appeal, appellant contends that the court abused its discretion in denying his request to preclude the chemist's report and jail calls as a sanction for the State's discovery violations. We disagree. A trial court's ruling on sanctions for discovery violations is reviewed for abuse of discretion. *Bellard v. State*, 229 Md. App. 312, 340 (2016), *aff'd*, 452 Md. 467 (2017). "To constitute an abuse of discretion, the decision has to be well

¹ The State's initial disclosure to appellant was approximately five days late. The prosecutor had previously indicated to the court that this was due to his confusion over who was representing appellant at the time.

removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Cousins v. State*, 231 Md. App. 417, 438 (2017) (quotation marks and citation omitted). Generally, in ruling on sanctions, the trial court ““should impose the least severe sanction that is consistent with the purpose of the discovery rules.”” *Raynor v. State*, 201 Md. App. 209, 228 (2011) (quoting *Thomas v. State*, 397 Md. 557, 571 (2007)). This view is consistent with the tenet that “discovery sanctions are designed to prevent a defendant from being surprised, not to yield a defendant the windfall of exclusion every time the State fails to comply with discovery rules.” *Morton v. State*, 200 Md. App. 529, 543 (2011) (quotation marks and citations omitted). Indeed, “[e]xclusion of evidence for a discovery violation is not a favored sanction and is one of the most drastic measures that can be imposed.” *Thomas*, 397 Md. at 572. In considering whether, and to what extent, sanctions are appropriate, “a trial court should consider: (1) the reasons why the disclosure was not made; (2) the existence and amount of any prejudice to the opposing party; (3) the feasibility of curing any prejudice with a continuance; and (4) any other relevant circumstances.” *Id.* at 570-71 (footnote omitted).

Having reviewed the factors considered by the court, including the reasons for the delay and the prejudice to appellant, we cannot say its decision not to exclude the chemist’s report and jail calls was so far removed from any center mark that we can imagine that it constituted an abuse of discretion. Although appellant notes that the State had previously been found to have violated the discovery rules, the court ultimately concluded that none of the discovery violations were intentional, a finding that we cannot say is clearly erroneous based on the record before us. Moreover, appellant has not identified why the

court’s remedy of a continuance was insufficient to ameliorate any prejudice from the State’s belated disclosure. Ultimately, the purpose of the discovery rules is “to give a defendant the necessary time to prepare a full and adequate defense[.]” *Thomas*, 397 Md. at 575 (quotation marks and citation omitted). Because the court’s decision regarding what sanctions to impose was consistent with that purpose, reversal is not required.

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