Circuit Court for Baltimore County
Case No.: C-03-CR-19-000617

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 0128

September Term, 2022

CHRISTOPHER JAMES ENGLES

v.

STATE OF MARYLAND

Wells, C.J.,
Shaw,
Harrell, Glenn T., Jr.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: May 1, 2023

* 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.

A jury in the Circuit Court for Baltimore County convicted appellant, Christopher James Engles, of first-degree murder, robbery with a dangerous weapon, and use of a handgun in the commission of a felony or crime of violence. The trial court sentenced Mr. Engles to life imprisonment for first-degree murder and concurrent 20-year terms for robbery with a dangerous weapon and use of a handgun in the commission of a felony or crime of violence. In this appeal, Mr. Engles presents the following question for our review, which we have rephrased slightly:

1. Did the circuit court err in allowing the lead detective to testify that he had "eliminated" a person of interest as a suspect in his investigation and by denying Mr. Engles' motion for a mistrial?

For the reasons set forth below, we affirm the judgment of the circuit court.

FACTUAL BACKGROUND[1]

At midnight on February 26, 2019, the police found Taylor Webb dead in the driver's seat of her parked car at the intersection of Hickory Falls Way and Hickoryhurst Drive in the Perry Hall area of Baltimore County. She had been shot to death. The car's engine was running and the passenger door was ajar. Neighbors heard gunshots in the area at approximately 11:15 p.m.

Ms. Webb had plans to meet Mr. Engles at 10:00 p.m. that evening. ELNesha Alston-Street, Ms. Webb's best friend, testified that she was aware of Ms. Webb's on-and-

[1] Because Mr. Engles does not challenge the sufficiency of the evidence against him, we briefly summarize the facts presented at trial to provide context for our discussion of the single issue he presents on appeal. *See Washington v. State*, 180 Md. App. 458, 461 n.2 (2008).

off relationship with Mr. Engles, which she described as "not good." On the day of Ms. Webb's murder, she and Ms. Alston-Street had spent the day together, and Ms. Webb shared with her messages she had received from Mr. Engles requesting to meet that night at 10:00 p.m. Ms. Alston-Street described Ms. Webb's mood as she left to meet Mr. Engles as "very excited, eager, happy."

Ms. Webb went alone to meet Mr. Engles. When Ms. Webb arrived at the meeting location, she sent Ms. Alston-Street an exact pin of her location. At 11:06 p.m., Ms. Webb messaged Ms. Alston-Street and said "Yes, I'm scared. He may kill me." At 11:10 p.m., Ms. Webb informed Ms. Alston-Street: "He's walking down the street." At 11:11 p.m., Ms. Webb texted that she was "nervous" and at 11:12 she texted, "oh, my goodness, he's coming." At 11:12 p.m., Ms. Webb texted her last message to Ms. Alston-Street: "Oh, my goodness, no."

The State introduced evidence regarding the nature of the relationship between Mr. Engles and Ms. Webb, including text messages and social media posts between December 2018 and February 2019. One Instagram post from Ms. Webb dated February 22, 2019, included a picture of Mr. Engles, and a caption referring to their relationship as "crazy" and remarking that she was surprised that they had not killed each other. Jasmine Smith, Ms. Webb's cousin, described Ms. Webb's relationship with Mr. Engles as "toxic."

The State introduced a text message from Mr. Engles to his friend, Nicholas Taylor, which stated, "I might have to kill this bitch Taylor." The State also introduced social media posts of Mr. Engles from February 2019; one showing him displaying a revolver, and the second, posted on the day of the murder, showing bullets. Bullet fragments recovered from

Ms. Webb's autopsy were determined to be .38 caliber, 9 millimeter, or .357 caliber class, and they showed evidence of having been loaded for use in a revolver.

Mr. Taylor was Mr. Engles' close friend, and he lived on the adjacent street. Ms. Webb had been involved in an altercation with Mr. Taylor's sister, which had resulted in Ms. Webb cutting the woman's face with a knife. Ms. Alston-Street testified that on one occasion, she and Ms. Webb met with Mr. Engles and Mr. Taylor in the parking lot of a mall to buy drugs. Mr. Taylor was considered a "person of interest" in the investigation of Ms. Webb's murder. He was arrested after a police stop revealed a 9 mm handgun in his waistband. A search of Mr. Taylor's home revealed ammunition, marijuana, and various parts of a rifle. The handgun found in Mr. Taylor's possession was determined not to be the handgun used in Ms. Webb's murder.

Four days before her murder, Ms. Webb posted on Instagram that she had given an individual her number and he had inundated her with text messages and requests for pictures. Her post stated that she had blocked him on social media and felt "legit scared." Detective Young testified that he had attempted to identity the individual Ms. Webb had referenced in her post, but he was unable to determine the individual's identity.

Mr. Engles' defense, presented through cross-examination of the State's witnesses, was that Dillon Fahey, Nicholas Taylor, and the anonymous person who was stalking Ms. Webb on social media, all had motive to murder her. Mr. Fahey dated Ms. Webb in 2018 and their relationship ended in a "[v]ery bad" and "[v]ery emotional" breakup, approximately three months before she was murdered. Ms. Webb's altercation with Mr. Taylor's sister reportedly resulted from Ms. Webb's breakup with Mr. Fahey. Four days

before her murder, Ms. Webb posted a lengthy message on social media directed at Mr. Fahey, stating: "You … ripped my heart out and stomped on it like it was nothing and somehow I still wish you the best after all the foul shit that you did to me."

During the direct examination of Baltimore County Police Detective Scott Young, the prosecutor asked him what steps he had taken with respect to his investigation of Mr. Fahey. Over Mr. Engles' objection, the court allowed him to answer, and he responded that he had obtained Mr. Fahey's cell phone records and interviewed Mr. Fahey and three of Mr. Fahey's associates. The prosecutor then asked Detective Young whether he had eliminated Mr. Fahey as a suspect, and over Mr. Engles' objection, he responded, "yes." Mr. Engles moved for a mistrial, and the court denied the motion.

At the close of the evidence, the court instructed the jury that any testimony that the court struck or told the jury to disregard was not evidence and should not be given any weight or consideration. As indicated, Mr. Engles was convicted of first-degree murder, robbery with a dangerous weapon, and use of a handgun in the commission of a felony or crime of violence. He noted a timely appeal.

DISCUSSION

I.

Hearsay

Mr. Engles argues that the circuit court erred in overruling his objection to Detective Young's testimony that he "eliminated" Mr. Fahey as a suspect. He asserts that Detective Young's statement was based on inadmissible hearsay and the statement invaded the factfinding function of the jury.

The State responds that Detective Young's testimony was admissible, and the trial court properly exercised its discretion in overruling Mr. Engles' objection. The State asserts that even if the court erred, the error was harmless, and Mr. Engles is not entitled to appellate relief.

During the direct examination of Detective Young, the following colloquy occurred:

[PROSECUTOR]: What did you do with respect to your investigation as to Dillon [Fahey]?

[DETECTIVE YOUNG]: So I obtained cell phone records for Mr. [Fahey]. I conducted two interviews with him and then I interviewed three persons that were associates of his –

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DETECTIVE YOUNG]: So I interviewed three associates of his. Two of which were with him–

[DEFENSE COUNSEL]: Objection.

THE COURT: Yeah, sustained. Strike that answer.
Pardon me?

[DEFENSE COUNSEL]: I ask that that be stricken.

THE COURT: I struck that portion of the answer. The jury is to disregard it.

[PROSECUTOR]: Based on what you were told, were you able to eliminate –

[DEFENSE COUNSEL]: Objection.

THE COURT: I don't think she needs to finish that question. Sustained.

[DEFENSE COUNSEL]: He can't possibly answer that question.

THE COURT: Sustained. Next question.

[PROSECUTOR]: Did you eliminate Dillon [Fahey] as a suspect?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DETECTIVE YOUNG]: Yes.

[PROSECUTOR]: Did you look into anybody else?

[DEFENSE COUNSEL]: Your Honor, may we approach?

THE COURT: All right. You may approach.

* * *

[DEFENSE COUNSEL]: Your Honor, the reason for my objection is this has to be all hearsay and who is he to eliminate? He can't eliminate something.

THE COURT: It depends on the question. He's asked was he eliminated as a suspect.

[DEFENSE COUNSEL]: What right … does he have to eliminate it? He's not –

THE COURT: He's the investigating –

[DEFENSE COUNSEL]: He's not the judge and the jury.

THE COURT: It's cross-examination. Overruled.

[DEFENSE COUNSEL]: Okay. … I'm going to ask for a mistrial –

THE COURT: All right.

[DEFENSE COUNSEL]: … Based on that question and answer and other hearsay that has come in.

THE COURT: You want to be heard on your motion?

[DEFENSE COUNSEL]: No.

THE COURT: All right. Motion for mistrial is denied.

(Emphasis added).

Maryland Rule 5-801(c) defines hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." A statement is "an oral or written assertion or … nonverbal conduct of a person[.]" Md. Rule 5-801(a).

Generally, we review a trial court's ruling on the admissibility of evidence under the abuse of discretion standard. *See Wise v. State*, 471 Md. 431, 442 (2020). "Review of the admissibility of evidence which is hearsay is different. Hearsay, under our rules, must be excluded as evidence at trial, unless it falls within an exception to the hearsay rule excluding such evidence or is permitted by applicable constitutional provisions or statutes." *Thomas v. State*, 429 Md. 85, 98 (2012) (emphasis, internal quotation marks and citation omitted) (quoting *Bernadyn*, 390 Md. at 7-8). Accordingly, a trial court "'has no discretion to admit hearsay in the absence of a provision providing for its admissibility.'" *Gordon v. State*, 431 Md. 527, 536 (2013) (quoting *Bernadyn*, 390 Md. at 8). Whether evidence constitutes hearsay is a legal conclusion, which we review *de novo*. *Id.* at 538 (citing *Bernadyn*, 390 Md. at 8.).

In *Daniel v. State*, 132 Md. App. 576, 589 (2000), we considered a similar hearsay objection and determined that a police officer's statement regarding the results of his

investigation was not hearsay. During redirect examination of an investigating police officer, the prosecutor asked the officer about his investigation, including the status of an individual connected to the crime. *Id*. at 587. The officer testified, over the objection of defense counsel, that the individual "was eliminated as a suspect." *Id*. The defense argued that the officer's testimony was hearsay because it was based on statements made to him by the eliminated suspect. *Id*. This Court rejected the defendant's argument, pointing out that the officer's testimony "did not offer even remotely any of [the suspect's] statements into evidence" and may not have been based on the suspect's statements. *Id*. at 589. We explained that "an interviewee's statements to an investigating police officer are not 'hearsay' unless and until they are offered into evidence for their truth." *Id*. Accordingly, we held that the trial court did not err in overruling defense counsel's objection on that basis. *Id*.

Mr. Engles argues that the analysis in *Daniel* is instructive, but its application in the present case leads to a different result because it was clear that Detective Young was basing his testimony on the statements of Mr. Fahey's associates. The record shows, however, that Detective Young's partial answer that two of Mr. Fahey's associates "were with him" and the prosecutor's partial question, "Based on what you were told, were you able to eliminate…" were stricken from the record and the jury was instructed to disregard that testimony. The jurors are presumed to have followed the instructions of the trial judge, particularly where the record shows no evidence to the contrary. *Donaldson v. State*, 200 Md. App. 581, 595 (2011).

Here, Detective Young's investigation of Mr. Fahey included a review of Mr. Fahey's cell phone records as well as interviews of Mr. Fahey and his associates. The detective did not specify which source of information formed the basis of his decision to eliminate Mr. Fahey as a suspect. Assuming, however, that Detective Young's investigation consisted exclusively of witness interviews, the detective's reliance on those statements would not constitute hearsay. That information would only constitute hearsay if the substance of the witness' statements were offered for their truth, rather than for the purpose of showing that the detective took some action in response to the statement. *See Daniel*, 132 Md. App. at 589. In this case, Detective Young did not offer into evidence any statements by Mr. Fahey or his associates, nor did he address the substance of those statements. Detective Young was asked a yes or no question regarding whether he eliminated Mr. Fahey as a suspect, and the answer admitted into evidence was "yes." Accordingly, we conclude that Detective Young's testimony was properly admitted as non-hearsay, and the trial court did not err in overruling Mr. Engles' objection to the testimony.

II.

Detective Young's "Conclusion"

We also disagree with appellant's assertion that, by testifying that he "eliminated" Mr. Fahey as a suspect, Detective Young improperly expressed his conclusion that Mr. Fahey was not guilty of the murder of Ms. Webb.

Maryland Rule 5-701 provides that a witness, who is not qualified as an expert, may testify "in the form of opinions or inferences … which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness's testimony

or the determination of a fact in issue." It is improper, however, for a witness to express an opinion that an individual is guilty or not guilty of a crime. *See Cook v. State*, 84 Md. App. 122, 138-44 (1990).

In *Cook*, an officer who had been accepted by the court as an expert in the field of drug dealing and operations, offered an opinion that Cook was the head of the drug organization because he "[had] the currency and also the gun displayed when we entered the dwelling" and that Darby, the second defendant, was the distributor of the drugs. *Id*. at 136. We determined that the officer was "in effect, stating an opinion that both appellants were guilty of all charges" and we reversed their convictions. *Id.* at 137. We noted that an expert opinion is not improper because it embraces the ultimate issue of fact, so long as it is relevant and of assistance to the trier of fact. *Id.* at 138-39. Because the officer provided his conclusions as to the defendants' specific roles in the organization, we determined that the testimony was highly prejudicial and of no assistance to the jury. *Id*. at 139. We explained that it would have been permissible for the officer to "describe[] the pattern of conduct normally, usually, or frequently associated with cocaine distribution operations and left it to the jury to decide whether appellants' conduct fit that pattern." *Id.* at 142.

Here, Detective Young did not provide an expert opinion, and his testimony was not inadmissible on the basis that it may have contained a "conclusion" that he had reached in the course of his investigation. We also addressed this point in *Daniel*, noting that even if we could infer that the police officer was drawing a conclusion as to whether someone was guilty or not guilty of a crime, such testimony is not necessarily improper. 132 Md. App. at 589-90. We explained that "police officers routinely testify about the conclusions they

draw from their investigations that lead them to take various actions, such as making arrests, following 'leads,' interviewing witnesses, and eliminating suspects." *Id*. at 590. *See also Jones v. State*, 310 Md. 569, 588 (1987), *vacated and remanded on other grounds*, 486 U.S. 1050, *sentence vacated on remand on other grounds*, 314 Md. 111 (1988) (concluding that a detective's statement that the defendant was identified as a suspect following an interview with a witness was admissible because it explained how the police came to identify the defendant as a suspect and include his photo in the array shown to the witness).

III.

Denial of Motion for a Mistrial

Mr. Engles further contends that the trial court abused its discretion in denying his motion for a mistrial following the admission of Detective Young's testimony that he eliminated Mr. Fahey as suspect.

The decision to grant a mistrial is an "extraordinary remedy" and "the trial judge has considerable discretion regarding when to invoke it." *Whack v. State*, 433 Md. 728, 751-52 (2013) (quoting *Powell v. State*, 406 Md. 679, 694 (2008)) (internal quotation marks omitted). "Ordinarily, the exercise of that discretion will not be disturbed upon appeal absent a showing of prejudice to the accused, and [i]n order to warrant a mistrial, the prejudice to the accused must be real and substantial." *Wagner v. State*, 213 Md. App. 419, 462 (2013) (internal quotation marks and citation omitted); *see also Kosh v. State*, 382 Md. 218 (2004) ("The determining factor as to whether a mistrial is necessary is whether the prejudice to the defendant was so substantial that he was deprived of a fair trial.")

(internal quotation marks and citation omitted). A denial of a motion for mistrial will be reversed "only where the prejudice to the defendant was so substantial that he was deprived of a fair trial." *Choate v. State*, 214 Md. App. 118, 133 (2013) (quotation marks and citation omitted).

As the State notes, Mr. Engles provides no argument and cites no legal authority in his brief in support of his position that it was an abuse of discretion for the trial court to deny his motion. At trial, Mr. Engles requested a mistrial "[b]ased on that question and answer and other hearsay that has come in." Defense counsel provided no further argument on the motion, and the court denied the motion. Because we perceive no error in the trial court's ruling allowing Detective Young to testify that he eliminated Mr. Fahey as a suspect, we see no basis for the court to order a mistrial. Accordingly, the trial court did not abuse its discretion in denying his motion for a mistrial.

IV.

Harmless Error

Even if we were to find that the trial court erred in overruling defense counsel's objection and permitting Detective Young to testify that he eliminated Mr. Fahey as a suspect, we conclude that any such error was harmless beyond a reasonable doubt. *See Dionas v. State*, 436 Md. 97, 108 (2013) (an error is harmless when a reviewing court is "'satisfied that there is no reasonable possibility that the evidence complained of – whether erroneously admitted or excluded – may have contributed to the rendition of the guilty verdict'") (quoting *Dorsey v. State*, 276 Md. 638, 659 (1976)); *accord Gross v. State*, 481

Md. 233, 257 (2022) (affirming the continued viability of the harmless error standard set forth in *Dorsey*, *supra*).

As the State notes, there was no evidence in the record implicating Mr. Fahey in Ms. Webb's murder. The only evidence linking Mr. Fahey to Ms. Webb was their "very bad" and "very emotional" break-up. During closing argument, defense counsel argued reasonable doubt as to Mr. Engles' culpability, emphasizing to the jury the evidence implicating Mr. Taylor in the murder. Defense counsel argued that Mr. Taylor had "just as much reason" to be in the vicinity of the murder, and "just as much opportunity," and "his motive far outweigh[ed] the motive that the State attaches to [Mr.] Engles."

The jury was presented with evidence that the police had investigated at least three other individuals, in addition to Mr. Engles, and that only one of the four had been eliminated as a suspect. The jury was therefore able to assess the thoroughness of the murder investigation that resulted in the State charging Mr. Engles with Ms. Webb's murder. Even if the jury had not learned that Mr. Fahey had been eliminated as a suspect, we are convinced beyond a reasonable doubt that there is no possibility that this fact alone would have changed the verdict.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.