

Circuit Court for Baltimore City
Case No. 119151003

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 182

September Term, 2020

CHRISTOPHER SHIFFLET

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 30, 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.

Convicted by a jury in the Circuit Court for Baltimore City of first degree assault and wearing or carrying a deadly weapon with intent to injure, Christopher Shifflet, appellant, presents for our review three questions: (1) whether the court committed reversible error in refusing to ask a proposed voir dire question, (2) whether the court abused its discretion in denying Mr. Shifflet’s motion for mistrial, and (3) whether the court erred in admitting into evidence “body camera footage.” For the reasons that follow, we shall answer Mr. Shifflet’s first question in the affirmative, reverse the judgments of the circuit court, and remand the case for a new trial.

Mr. Shifflet’s trial commenced on October 29, 2019. During voir dire, defense counsel requested that the court ask the prospective jurors: “Does any member of the panel have feelings that a person accused of a crime must defend themselves and if that person does not, that would prevent you from assessing their statements fairly and impartially, or make . . . you unable to render a fair and impartial decision based on what they said?” The court declined the request, stating: “I think my voir dire fairly covers those questions.” On October 31, 2019, Mr. Shifflet was convicted of the aforementioned offenses.

In January 2020, the Court of Appeals issued its opinion in *Kazadi v. State*, 467 Md. 1 (2020), in which the Court stated that “on request, during *voir dire*, a trial court must ask whether any prospective jurors are unwilling or unable to comply with the jury instructions on the long-standing fundamental principles of the presumption of innocence, the State’s burden of proof, and the defendant’s right not to testify.” *Id.* at 35-36. In February 2020, Mr. Shifflet was sentenced, and in March 2020, Mr. Shifflet filed a notice of appeal. In December 2021, the Court of Appeals issued its opinion in *Kumar v. State*, 477 Md. 45

(2021), in which the Court stated that *Kazadi* “applies to any case that was pending in a trial or appellate court that had not become final on direct appeal when [the] Court issued the opinion in *Kazadi* and in which the *Kazadi* issue had been preserved for appellate review.” *Kumar* at 55.

Mr. Shifflet contends that in light of *Kazadi*, the court erred in declining to give his requested voir dire question. The State concurs, as do we. “*Voir dire* questions concerning these fundamental rights are warranted because responses indicating an inability or unwillingness to follow jury instructions give rise to grounds for disqualification – *i.e.*, a basis for meritorious motions to strike for cause the responding prospective jurors, that may not be discovered until it is too late, or may not be discovered at all.” *Kazadi*, 467 Md. at 41-42 (citations omitted). Accordingly, we reverse the judgments of the court and remand the case for a new trial.¹

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED.
CASE REMANDED TO THAT COURT
FOR A NEW TRIAL. COSTS TO BE PAID
BY MAYOR AND CITY COUNCIL OF
BALTIMORE.**

¹Mr. Shifflet’s second contention is that the court abused its discretion in denying his motion for mistrial made after “the jury was exposed to an emotional outburst of [Mr. Shifflet] on their way out of the courtroom at the close of proceedings.” Mr. Shifflet’s third contention is that the court erred in admitting into evidence body camera footage containing allegedly inadmissible hearsay in the form of a testifying witness’s prior recorded inconsistent statements. As these circumstances are unlikely to reoccur on remand, we decline to address the contentions.