Circuit Court for Baltimore City
Case No.: 120303001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND**

No. 227

September Term, 2022

ROGER LOCKLEAR

v.

STATE OF MARYLAND

Nazarian,
Shaw,
Sharer, Frederick J.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.

Filed: March 16, 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.

After a jury trial in the Circuit Court for Baltimore City, Roger Locklear, Appellant, was convicted of first-degree assault. He was sentenced to incarceration for a period of eighteen years, with all but thirteen years suspended, followed by two years of probation. This timely appeal followed.

QUESTIONS PRESENTED

Appellant presents the following two questions for our consideration:

> I. Did the [C]ircuit [C]ourt abuse its discretion when it declined to ask *voir dire* questions requested by defense counsel focused on uncovering juror bias against self-defense?
>
> II. Did the [C]ircuit [C]ourt abuse its discretion when it allowed testimony claiming that [Appellant] had been banned from the property where the altercation happened?

For the reasons set forth below, we shall affirm.

FACTUAL BACKGROUND

On September 24, 2020, Christopher Goeller worked as a produce clerk at a grocery store known as the Markets of Highlandtown ("the Market") which is located on Eastern Avenue in Baltimore City. That afternoon, he sat in his car, parked in the store's parking lot, and ate his lunch. As he prepared to exit his car and return to work, he observed a man and a woman knocking on windows asking people for money. At trial, Goeller identified the man as Appellant. Goeller did not know the woman's name, but he recognized both Appellant and the woman because he saw them in the parking lot at the Market "all the time" and saw them in other places in the area as well. Goeller testified that he saw the woman with Appellant on a daily basis.

Goeller told Appellant he needed "to leave the property." Goeller testified that because he is hearing impaired, he speaks loudly. Because he was not near Appellant, he spoke in a voice that was "a little bit louder" than usual. Appellant replied, "[f]uck you. What are you going to do about it?" Goeller replied, "[w]hat you going to do about it?" Appellant then ran up to Goeller so that he "was practically on" him, and Goeller pushed him away. Appellant pushed Goeller and the two began fighting.

A portion of the fight was captured on a video camera and the recording was played for the jury. Goeller identified himself, Appellant, and the woman in the video recording. At some point during the fight, Goeller hit Appellant who "went down." Goeller observed a knife fall out of his hand. Goeller did not realize at that time that he had been stabbed. The woman picked up the knife and hit Goeller in the face with a book bag. She then gave the knife back to Appellant and "told him to stab [Goeller] again."

Someone from the Market came out to the parking lot. Appellant "ran off" but the woman lingered a little bit and argued with a store manager. Goeller's bowel and finger were cut. He was taken to the hospital by ambulance, where he had surgery, and remained in the hospital for five days; he was unable to work for several weeks.

On the day of the incident, Diana Mendez was in the parking lot of the Market. As she was standing outside her car, smoking a cigarette, she heard someone screaming. She saw a woman screaming at a man who was about to back his car into her. Mendez recognized the woman as someone she had seen on more than twenty occasions. Mendez had observed the woman with a man, who she believed was the woman's boyfriend, in front of various stores, including the Market, "[e]ither asking for money, or just sitting

there, or selling whatever they had." At trial, Mendez identified Appellant as the man she had seen with the woman. Mendez testified that the woman and Appellant were "[a]lways arguing with somebody, or just walking around" and that they had previously argued with her.

After hearing the woman screaming, Mendez got into her car. She observed a man, who she knew worked at the Market, eating his lunch in his car. At some point, the man exited his vehicle and Mendez also exited her vehicle. Mendez heard the man say, "[m]an, you know you're not supposed to be on the property. Why are you on the property?" At first Mendez did not know who the store employee was talking to, but then she observed Appellant pop "out of nowhere." Appellant said, "[w]hat the 'F' did you say to me?" The store employee responded, "[y]ou know you're not supposed to be on the property." The two men started "tussling" and Appellant knocked the store employee's glasses off his face. At some point, Mendez heard the woman say, "[s]tab him. F' ing stab him." As the confrontation began, Mendez's phone rang, and she turned away for a few seconds to answer it. Thereafter, Mendez observed Appellant lunging and jabbing at the store employee and the two men ended up "rolling around on the ground." Mendez saw that the store employee was bleeding. A cashier came out of the Market. Mendez did not see a knife until "the end." Police and paramedics were called. Before they arrived, Appellant and the woman left the parking lot separately. After Mendez left the parking lot, she observed Appellant and the woman in front of a store on Highland Avenue. Mendez returned to the Market and reported that information to the police.

Baltimore City Police Detective Brian Coffin responded to the Market for a report of a non-fatal cutting. By the time he arrived, Goeller had already been taken by medics to the hospital. After identifying witnesses and getting preliminary reports from patrol officers who were at the scene, Detective Coffin went inside the Market and located the video footage. He received information that Appellant and the woman were at a nearby Royal Farms store. When Detective Coffin went to the Royal Farms store, he saw the same individuals standing outside that he had seen in the Market video footage. He obtained video footage from the Royal Farms store and, ultimately, was able to identify Appellant and the woman who was with him.

On the day of the incident, Detective Coffin attempted to speak with Goeller in the hospital, but he had just come out of surgery and was incoherent. A week or so after the incident, Detective Coffin met with Goeller and conducted a double-blind sequential photographic array. According to Detective Coffin, Goeller identified photographs of Appellant and a woman named Destiny Zornes.

A week or two after the incident, Goeller met with detectives who showed him a photographic array from which he identified Appellant as the person who stabbed him. Detectives showed Goeller another photographic array from which he identified the woman who was with Appellant. In a statement, Goeller wrote, "[o]n September 24th, she was involved with the man that stabbed me." Goeller also wrote that "[w]hen he dropped the knife, she gave it back to him and told him to stab me again."

DISCUSSION

I.

Appellant contends the Circuit Court abused its discretion in refusing to ask two *voir dire* questions pertaining to self-defense that were submitted prior to trial. Appellant proposed questions 7 and 8, which pertained to self-defense[1]:

> 7. Does anyone on the panel believe that self-defense is not a valid defense in the State of Maryland?
>
> 8. Does anyone on the panel believe that self-defense is not a valid defense at all?

The court declined Appellant's request, explaining that the issues were addressed in other questions asked of the jurors and that self-defense would be addressed in an instruction to the jury. The court explained:

[1] Appellant also requested the court to ask his proposed question number 9, "[d]oes anyone on the panel believe that a citizen has the right to enforce the law as they think the police would do, or if they believe the police would act in the same manner?" Although the court denied the request for question number 9, no challenge to that question was presented in this appeal.

> I believe question[s] 17[2] and 22[3] adequately incorporate these. Question 17, obviously, is more broadly talking about other *Kazadi* [*v. State*, 437 Md. 357 (2020] type questions. I understand it doesn't talk directly about self-defense. However, it does specifically ask if anybody would not be able to follow the Court's instructions on the law. Questions seven and eight speak to self-defense, which are certainly, if the issue is raised, going to be jury instructions read to the jury. And as far as a citizen's right to enforce the laws as they think the police would do, again, I think that – I think the self-defense law can adequately speak to that.

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[2] Presumably to accommodate social distancing in response to the Covid pandemic, the potential jurors were divided into two groups and the trial judge conducted *voir dire* in two sessions. In each session, the potential jurors were asked the same questions although there was one minor difference in wording with respect to Question 17. The first time Question 17 was asked as follows:

> The defendant in a criminal case is presumed to be innocent. The State bears the burden of proving guilt beyond a reasonable doubt. Moreover, the defendant has an absolute right to remain silent, which means that if he or she chooses not to testify, a juror may not consider the defendant's silence when determining whether the State met its burden of proof.
>
> Is there any member of the jury who believes the defendant is guilty just because he has been charged with a crime and would not be able to follow the Court's instructions on the law, including those instructions on the presumption of innocence, the State's burden of proof, and the defendant's right to remain silent?

The second time Question 17 was asked, the judge changed a part of the second paragraph by stating, "[i]s there any member of the jury who believes the defendant is guilty just because he has been charged with a crime, **or would not** be able to follow the Court's instructions on the law, ..."

[3] Question 22 asked:

> Is there anything not yet mentioned that could affect your ability to make a fair and impartial judgment in this case? In other words, is there anything you haven't yet told us that could affect your ability to base your judgment solely on the evidence presented in the courtroom, or to follow the law as the Court will instruct you?

> So, I am noting the objection and I'm going to overrule it. I'm not going to incorporate that into this voir dire.

Immediately thereafter, the court asked counsel if there were any other objections. Defense counsel responded, "[n]o other objections to the other questions that are contained here." After the court completed the *voir dire* of the first venire group, the judge asked counsel if there were any objections. Defense counsel responded "(Unintelligible at 12:31:02) previous objections, Your Honor." When the questioning of the second venire group was completed, the judge again asked counsel if they had "[a]ny objections to what was read on the record[,]" and defense counsel replied, "[n]one other than previously noted objections."

A. *Voir Dire* in Maryland

The Sixth Amendment to the Constitution of the United States and Article 21 of the Maryland Declaration of Rights both guarantee a criminal defendant the right to an impartial jury. U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed[.]"); Md. Const. Decl. of Rts. Art. 21 ("That in all criminal prosecutions, every man hath a right to . . . a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty."); *see also Lopez-Villa v. State*, 478 Md. 1, 10 (2022) ("We have held that Article 21 of the Maryland Declaration of Rights 'guarantees a defendant the right to examine prospective jurors to determine whether any cause exists for a juror's disqualification.'") (quoting *Bedford v. State*, 317 Md. 659, 670 (1989)). *Voir dire* "'is the mechanism whereby the right to a fair and

impartial jury . . . is given substance.'" *State v. Ablonczy*, 474 Md. 149, 157-58 (2021) (quoting *Dingle v. State*, 361 Md. 1, 9 (2000)). It allows courts to propound questions to determine the existence of bias or prejudice that would disqualify potential jurors. *Id.*

Maryland employs limited *voir dire*, "the sole purpose" of which "is to ensure a fair and impartial jury by determining the existence of cause for disqualification, and not as in many other states, to include the intelligent exercise of peremptory challenges." *Washington v. State*, 425 Md. 306, 312 (2012). "On request, a trial court must ask a *voir dire* question if and only if the *voir dire* question is 'reasonably likely to reveal [specific] cause for disqualification[.]'" *Pearson v. State*, 437 Md. 350, 357 (2014) (quoting *Moore v. State*, 412 Md. 635, 663 (2010)). *See also Ablonczy*, 474 Md. at 156 (explaining the only purpose of the *voir dire* inquiry "is to ascertain the existence of cause for disqualification") (quoting *Casey v. Roman Catholic Archbishop of Baltimore*, 217 Md. 595, 605 (1958)). The Supreme Court of Maryland[4] has held that:

> [t]here are two categories of specific cause for disqualification: (1) a statute disqualifies a prospective juror; or (2) a 'collateral matter [is] reasonably liable to have undue influence over' a prospective juror. *Washington*, 425 Md. at 313, 40 A.3d at 1021 (citation omitted). The latter category is comprised of 'biases directly related to the crime, the witnesses, or the defendant.

Pearson, 437 Md. at 357.

[4] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals to the Supreme Court of Maryland and the name of the Court of Special Appeals to the Appellate Court of Maryland. The name changes took effect on December 14, 2022. For consistency, we shall refer to both courts throughout by their current names.

Unlike most other jurisdictions in the United States, in Maryland, "'the intelligent exercise of peremptory challenges'" is not a purpose of *voir dire*. *Pearson*, 437 Md. at 356-57 (quoting *Washington*, 425 Md. at 312); *see also Williams v. State*, 246 Md. App. 308, 340-41 (2020). As a result, trial courts may decline to ask *voir dire* questions "'which are not directed at a specific ground for disqualification, which are merely 'fishing' for information to assist in the exercise of peremptory challenges, [or] which probe the prospective juror's knowledge of the law, ask a juror to make a specific commitment, or address sentencing considerations[.]'" *Washington*, 425 Md. at 315.

"The 'extent of the examination [of potential jurors] rests in the sound discretion of the trial court[.]'" *Ablonczy*, 474 Md. at 157 (quoting *Langley v. State*, 281 Md. 337, 341 (1977)). Thus, we review for abuse of discretion a trial court's decision as to whether to ask a *voir dire* question. *Kazadi v. State*, 467 Md. 1, 24 (2020); *Pearson*, 437 Md. at 356. An abuse of discretion occurs "'where no reasonable person would take the view adopted by the [trial] court,' 'when the court acts without reference to any guiding rules or principles,' or when the court's 'ruling is clearly against the logic and effect of facts and inferences before the court.'" *State v. Alexander*, 467 Md. 600, 620 (2020) (quoting *Alexis v. State*, 437 Md. 457, 478 (2014)). We note, however, a court abuses its discretion if it declines a request to pose certain mandatory *voir dire* questions. *Kazadi*, 467 Md. at 48. In *Kazadi*, the Supreme Court of Maryland adopted a new standard requiring trial courts, when requested by a defendant, to "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." *Kazadi*, 467 Md. at 36.

B. Mandatory *Voir Dire* Questions

Appellant contends his proposed *voir dire* questions on self-defense were mandatory because they would have helped uncover bias against his defense, which was specific to the facts of his case, and would have protected his right to a fair trial. He also asserts the questions on self-defense were mandatory because self-defense is a fundamental principle of justice. According to Appellant, "[i]f one or more jurors harbored a bias against the concept of self-defense, they were not qualified to participate in [his] case, because his case required application of that concept in a fair and impartial manner." Appellant further asserts "[i]f a potential juror did not believe in self-defense, they would be unable to fairly assess the issue raised and fairly render an impartial verdict and would, therefore, be unqualified."

Appellant acknowledges that no appellate case in Maryland has held *voir dire* questions on self-defense are required. In support of his contention that such questions are required, he directs our attention to *Logan v. State*, 164 Md. App. 1 (2005), *aff'd*, 394 Md. 378 (2006), *abrogated by Kazadi*, 467 Md. 1 (2020). While Appellant relies, in part, on our opinion in *Logan*, 164 Md. App. 1 (2005) ("*Logan I*"), the State maintains that *Logan*, 394 Md. 378 (2006) ("*Logan II*"), is the controlling case. We shall review those decisions in some detail as well as the abrogation announced in *Kazadi*.

1. *Logan I*

After a jury trial, Logan was found "criminally responsible" and convicted of two counts of second-degree murder and two counts of use of a handgun during the commission of a crime of violence. *Logan I*, 164 Md. App. at 7. On appeal, he argued, among other things, that the trial court abused its discretion when it refused to give his proposed multi-part *voir dire* question number 7 concerning whether the venire harbored a bias towards a not criminally responsible ("NCR") defense. *Id.*at 7-8. The proposed question was as follows:

> 7. Evidence will be produced during trial showing that the Defendant suffered from paranoid schizophrenia at the time of the crime. To that end, the defense will argue that the defendant was not criminally responsible at the time of the crime because, due to his mental disorder, he lacked substantial capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.
>
> A. If the defendant satisfies his burden in this regard, will any member of the jury be unable to find the defendant not criminally responsible?
>
> B. Does any juror anticipate having difficulty following the court's instructions on the defense of "not criminally responsible," particularly in view of the crimes charged in the indictment?
>
> C. Has any member of the jury studied psychology or psychiatry?
>
> D. Do you have any reservations or feelings that would prevent you from fairly considering the evidence in the case?
>
> E. In view of the defense of "not criminally responsible," does any member of the venire prefer not to sit on the case?

Id. at 54.

The trial court declined to ask Logan's proposed question 7, but it asked, among other things, whether any members of the venire "or members of your immediate families

have any experience, training, or education in the mental health field, such as psychiatry or psychology?" *Id.* at 55.

On appeal, Logan argued the failure of the trial court to ask question number 7 rendered the *voir dire* process constitutionally inadequate to uncover potential bias, preconceived notions, and strong emotional reactions to the NCR defense such that the potential jurors would be incapable of applying the defense in accordance with the trial court's instructions. *Id.* at 56-57. The State countered that the refusal to ask question number 7 was not an abuse of discretion because the trial court was not required to inquire on *voir dire* as to whether the potential jurors could or would follow the court's instructions. Further, sub-questions A, B, and E called for speculative responses and were directed at "matters inappropriate for *voir dire*." *Id.* at 58. The State urged this Court not to expand the role of *voir dire*, arguing, in part, "[t]o adopt Logan's reasoning, any and all legal principles that might apply during the trial would need to be spelled out during *voir dire* for the purposes of eliciting the jurors' attitudes and responses thereto[,]" which was an untenable approach not contemplated by the *voir dire* process. *Id.* at 58. The State also maintained that the questions requested by Logan were covered by other *voir dire* questions posed by the court, stating:

> The court specifically asked the venire whether anyone among them had "any experience, training, or education in the mental health field; specifically, psychiatry or psychology?"
>
> The court further asked: ["Do any of you have any religious, moral, philosophical or other personal reasons that would make it difficult for you to sit in judgment of another person?";

> "Do any of you have any reason that I haven't already gone into why you believe that you could not sit as a juror in this case and render a fair and impartial verdict?"]
>
> The venire knew that Logan was charged with killing Arnaud and Magruder and that he pled "not guilty and not criminally responsible." The scope of these questions were adequate to reveal any potential juror bias related to Logan's case.

Id. at 58-59.

We recognized, notwithstanding the broad discretion afforded to trial courts in *voir dire*, there are some areas of inquiry that are mandatory because they "involve 'potential biases or predispositions that prospective jurors may hold which, if present, would hinder their ability to objectively resolve the matter before them.'" *Id.* at 60 (quoting *Dingle v. State*, 361 Md. 1, 10 n.8 (2000)). Those areas included:

> "racial, ethnic and cultural bias"; "religious bias"; "predisposition as to the use of circumstantial evidence in capital cases"; and "placement of undue weight on police officer credibility." Questions beyond these required subjects must go "directly to the question of juror bias and unequivocal disqualification."

Logan I, 164 Md. App. at 60 (internal citations omitted).

With regard to questions beyond those permitted areas, the trial judge "must assess whether there is a reasonable likelihood that a given line of inquiry will reveal a basis for disqualification[,]" and, "[a]bsent such a reasonable likelihood, there is no necessity to pursue the inquiry, notwithstanding the possibility that some conceivable basis for disqualification might be revealed." *Id.* (internal citations omitted). We explained

> [t]o determine "reasonable likelihood," the trial court should consider "whether a proposed inquiry is *reasonably* likely to reveal disqualifying partiality or bias," and should weigh "the expenditure of time and resources in the pursuit of the reason for the response to a proposed *voir dire* question

> against the likelihood that pursuing the reason for the response will reveal bias or partiality."

Id. at 60-61 (internal citations omitted).

We agreed with Logan "that the subject matter of the NCR defense was of considerable importance, and it should have been carefully explored on *voir dire*." *Id.* at 62. We determined, however, that Logan was not entitled to questions 7A and B on *voir dire* because, under *Twining v. State*, 234 Md. 97 (1964), those inquires pertained to whether prospective jurors would apply the court's instructions on the law and, therefore were not proper. In *Twining*, the defendant requested the court to inquire as to whether the potential jurors would give the accused the benefit of the presumption of innocence and the burden of proof. *Id.* at 100. The Supreme Court of Maryland found no abuse of discretion in the trial court's refusal to give the requested instruction. *Id.* In reaching its conclusion, the Court stated: "[i]t is generally recognized that it is inappropriate to instruct on the law at this stage of the case, or to question the jury as to whether or not they would be disposed to follow or apply stated rules of law. . . . This would seem to be particularly true in Maryland, where the courts' instructions are only advisory." *Id.*

As to Logan's remaining questions, we stated:

> In connection with [Logan's] NCR defense, the jury had to determine whether he suffered from a mental illness that negated his criminal responsibility. Some members of the venire might have been disdainful of an NCR defense, particularly in the context of the shooting deaths of two law enforcement officers who were killed in the line of duty. Precisely because the subject matter of an NCR defense is a controversial one, the trial court should have inquired whether any prospective jurors had reservations or strong feelings regarding such a defense.

Id. at 66. In support of that conclusion, we looked to cases from other jurisdictions. *Id.* at 67. Ultimately, we reversed, holding that the trial court "erred or abused its discretion in failing to propound the questions concerning juror attitudes and potential bias about an NCR defense." *Id.* at 69.

2. *Logan II*

The Supreme Court of Maryland granted the State's petition for writ of certiorari and Logan's conditional cross-petition for certiorari. *Logan II*, 394 Md. 378 (2006). The Court affirmed our decision to reverse, but on different grounds, specifically, that the trial judge improperly admitted evidence of Logan's videotaped confession that was obtained in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), and the error was not harmless. *Logan II*, 394 Md. at 389-91. Although the Court recognized that its decision rendered moot the *voir dire* issue, it went on to address the issue "for guidance because on retrial it [was] likely to arise again." *Id.* at 391.

In dicta, the Court stated that "[d]efenses, including the NCR defense, do not fall within the category of mandatory inquiry on *voir dire*." *Logan II*, 394 Md. at 397. The Court found no error with respect to part C of Logan's proposed question 7, which addressed whether any member of the venire had studied psychology or psychiatry, noting that the trial judge asked that question. *Logan II*, 394 Md. at 400. As to the other parts of proposed question 7, the Court noted each part, with the exception of part C, "was improperly phrased" and, as a result, it was not an abuse of discretion for the trial judge to refuse to ask those questions. *Logan II*, 394 Md. at 398. The Court determined parts A and B were vague and were not proper because they amounted to solicitations of whether

prospective jurors would follow the court's instructions on the law without knowing what those instructions would be. *Logan II*, 394 Md. at 398-99. As to part D, the Court noted that the trial judge asked prospective jurors several similar questions and, as a result, part D was fairly covered during *voir dire*. *Logan II*, 394 Md. at 400. Finally, as to part E, the Court determined it was an improper question because "[t]he issue is not whether a juror *prefers* not to sit on a case; the issue is whether the juror is biased." *Logan II*, 394 Md. at 400.

3. *Kazadi v. State*

The Court's decision in *Logan II* was abrogated in part by *Kazadi v. State*, 467 Md. 1 (2020). In that case, Kazadi, who was charged with first-degree murder, use of a firearm in the commission of a crime of violence or felony, and wearing, carrying, or transporting a handgun, requested the court to ask on *voir dire* whether any prospective jurors were unwilling or unable to follow jury instructions on the presumption of innocence, the burden of proof, and the defendant's right not to testify. *Kazadi*, 467 Md. at 8. The trial court refused to ask those questions and Kazadi appealed. *Id.* We held that *Twining* was controlling, and the trial court did not abuse its discretion in declining to ask *voir dire* questions concerning the prospective jurors' willingness to follow jury instructions. *Id.* at 20. Thereafter, the Supreme Court of Maryland granted Kazadi's petition for a writ of certiorari. *Id.* at 8.

The Supreme Court of Maryland considered whether, upon request, a trial court must ask *voir dire* questions concerning a prospective juror's ability to follow jury instructions on the long-standing fundamental principles of the presumption of innocence,

the burden of proof, and a defendant's right to remain silent. That issue necessitated a reexamination of *Twining*. *Kazadi*, 467 Md. at 7-9.

The Court considered developments that had occurred in the fifty-five years since *Twining* was decided, particularly its "subsequent holdings that, other than with respect to the crime charged, jury instructions are binding" on jurors and not advisory only. *Id.* at 8-9, 35. The Court concluded the holding in *Twining* with respect to *voir dire* questions was "based on outdated reasoning and has been superseded by significant changes in the law." *Id.* at 8-9, 24-25, and 35. The Court noted that prior to its opinion in *Kazadi*, it had mentioned *Twining* by name in only one case -- *Logan II*. *Id.* at 26. The Court overruled its prior holding in *Twining* and determined, "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. The Court explained that, contrary to its prior reasoning in *Twining*, "jury instructions on the presumption of innocence and the burden of proof are not an effective remedy for a prospective juror who is unwilling or unable to follow such jury instructions. . . . Simply put, if a trial court seats a prospective juror who is unwilling or unable to follow jury instructions on the presumption of innocence and the burden of proof, jury instructions, which are given at the end of trial will be too little, and too late to uncover the basis for disqualification." *Id.* at 38-39 (footnote omitted). For that reason, the Court held "[o]n 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 presumption of innocence, the burden

of proof, and the defendant's right not to testify." *Kazadi*, 467 Md. at 48. Notably, the Court also stated:

> Just as we do not disturb case law as to *voir dire* questions concerning jury instructions other than those on the presumption of innocence, the burden of proof, and the right not to testify, we continue to stand by the well-established principle that 'Maryland employs limited *voir dire* – that is, in Maryland, *voir dire's* sole purpose is to elicit specific cause for disqualification, not to aid counsel in the intelligent use of peremptory strikes.' We require *voir dire* questions concerning the three fundamental rights at issue because they could elicit responses that would give rise to meritorious motions to strike the responding prospective jurors for cause – *i.e.*, grounds for disqualification – not because such responses could aid counsel in the intelligent use of peremptory strikes.

Id. at 46-47 (internal citation omitted).

C. Self-Defense

Appellant contends the principles of mandatory *voir dire* apply with respect to questions concerning self-defense. He directs our attention to our ruling in *Logan I*, explaining:

> [t]he Court's opinion in *Logan II* was abrogated by *Kazadi v. State*, 467 Md. 1 (2020), which overruled *Twining*; therefore, the dicta in *Logan II* regarding questions 7A and 7B is no longer persuasive because the trial court must ask questions about fundamental principles of law even if they will come up in jury instructions. *See Kazadi*, 467 Md. at 44 n. 12 (explaining *Logan II* is "no longer good law with respect to *voir dire* questions concerning fundamental rights.") . . . . Thus, this Court's reasoning in *Logan I*, regarding the importance of *voir dire* questions that ascertain whether prospective jurors harbor biases regarding a defense at issue in the case, remains forceful, especially in the wake of *Kazadi*.

Appellant maintains that just as the NCR defense was key to Logan's defense, self-defense was the key in his case because his claim of self-defense was essential to the outcome. He maintains that just as jurors' views on the NCR defense are critical to their

disqualification, the views of potential jurors with respect to self-defense are also critical to their disqualification. Questions pertaining to self-defense are mandatory because self-defense is a fundamental principle of justice and, therefore, such questions should be asked when requested even when the trial judge asks prospective jurors if they are willing to following instructions on the law in general. We do not agree.

In *Kazadi*, the Supreme Court of Maryland abrogated *Logan II* only to the extent it relied on *Twining*. *See Kazadi*, 467 Md. at 44 n.12. The holding in *Kazadi* was limited to the presumption of innocence, the burden of proof, and the right not to testify – three rights that underlie all criminal cases. The Court's holding did not require *voir dire* questions about defenses generally or self-defense specifically. In fact, the *Kazadi* opinion makes clear that the Court's ruling did not "disturb case law as to *voir dire* questions concerning jury instructions other than those on the presumption of innocence, the burden of proof, and the right not to testify[.]" *Kazadi*, 467 Md. at 46.

The high court's analysis in *Logan II* rested, in part, on Maryland's adoption of limited *voir dire* and the established concept that defenses generally are not a mandatory subject of *voir dire*. *Logan II*, 394 Md. at 397 ("Defenses, including the NCR defense, do not fall within the category of mandatory inquiry on *voir dire*.") (footnote omitted). That aspect of *Logan II* was not affected by *Kazadi*. The reasoning expressed by the Supreme Court of Maryland in dicta in *Logan II* is persuasive. There is no Maryland case law requiring *voir dire* questions pertaining to self-defense or jury instructions pertaining to

self-defense.[5] For that reason, the trial court did not abuse its discretion in denying Appellant's requested *voir dire* questions on self-defense.

Appellant requests we reconsider the concept of limited *voir dire* in order to protect the fundamental principles of fairness in jury trials. As the State correctly notes, the rulings

[5] Appellant directs our attention to cases from other jurisdictions. Several of those cases refer to *voir dire* serving to inform a defendant's exercise of peremptory challenges and, as a result, they do not carry persuasive weight in Maryland. *See People v. Taylor*, 489 N.W.2d 99, 101 (Mich. App. 1992) (per curiam) ("[T]rial court may not restrict voir dire in a manner that prevents the development of a factual basis for the exercise of peremptory challenges."); *Everly v. State*, 395 N.E.2d 254, 689-90 (Ind. 1979) ("While the trial court must be mindful that jurors are to be examined to eliminate bias but not to condition them to be receptive to the questioner's position, . . . it must afford each party a reasonable opportunity to exercise his challenges intelligently."); *State v. Brown*, 547 S.W.2d 797, 799 (Mo. 1977) (en banc) ("The purpose of the examination by defendant of the panel on their voir dire is to develop, not only facts which might form the basis of a challenge for cause, but also such facts as might be useful to him in intelligently determining his peremptory challenges.") (citations omitted); and, *Griffin v. State*, 389 S.W.2d 900, 902-03 (Ark. 1965) (recognizing rule gives "litigants the right to examine jurors separately in order to determine whether such jurors are subject to challenge for cause, or to elicit information on which to base the right of a peremptory challenge").

In the fifth case relied upon by Appellant, *Black v. State*, 829 N.E.2d 607 (Ind. Ct. App. 2005), the Court of Appeals of Indiana determined that "the ability to question prospective jurors regarding their beliefs and feelings concerning the doctrine of self-defense, so as to determine whether they have firmly-held beliefs which would prevent them from applying the law of self-defense to the facts of the case, is essential to a fair and impartial jury." *Black*, 829 N.E.2d at 611. The court in *Black* relied on *Everly* as "helpful, though not dispositive, in determining whether fundamental error occurred." *Black*, 829 N.E.2d at 610 n.3. Indiana law makes clear that "[d]ue process requires a fair opportunity to discover existing grounds for challenge, both for cause and peremptorily, but no more." *Johnson v. State*, 399 N.E.2d 360, 363 (1980). *See also Perryman v. State*, 830 N.E.2d 1005, 1008 (Ind. Ct. App. 2005) (explaining that a trial court must "afford each party a reasonable opportunity to exercise its peremptory challenges intelligently through inquiry"). Unlike Indiana, Maryland law makes clear that informing the exercise of peremptory challenges "is not a purpose of *voir dire* in Maryland." *Pearson v. State*, 437 Md. 350, 356-57 (2014) (citation and quotation marks omitted).

of the Supreme Court of Maryland "remain the law of this State until and unless those decisions are either explained away or overruled by" the high court itself. *Foster v. State*, 247 Md. App. 642, 651 (2020) ("It is not up to [the Appellate Court of Maryland], however, to overrule a decision of the [Supreme Court of Maryland] that is directly on point."), *cert. denied*, 475 Md. 687 (2021). At this time, Maryland employs limited *voir dire* and there is no case law providing that the principles of mandatory *voir dire* apply with respect to questions concerning self-defense. Accordingly, we conclude that the trial court did not abuse its discretion in declining to give the Appellant's requested *voir dire* questions on self-defense.

II.

Appellant argues the trial court abused its discretion in allowing testimony that he was not allowed on the property where the altercation occurred. We disagree and explain.

A. Nature of Appellant's Objection

On direct examination, Goeller testified that he saw Appellant and the woman he was with "every day." When asked where he saw them, Goeller stated, "[t]hey're always in the parking lot. They're always being told to leave." The prosecutor asked Goeller who told them to leave, and he stated, "[t]he managers tell them to leave, security." Defense counsel objected on hearsay grounds. While discussing the objection at a bench conference, defense counsel notified the court that she was "proffering an objection at this point about my client or the other individual being banned because I've been given no notice and no information – it's a legal conclusion about (unintelligible at 10:45:04) a ban." The court responded that Goeller was an employee of the store and "the question [was]

already in that . . . they're always in the parking lot and they always tell them to leave. So, we have that in there. I mean, we'll deal with it as it goes. I appreciate the notice for future objections." The court sustained the objection and ordered the answer be stricken.

When the direct examination of Goeller continued, the following occurred:

> [PROSECUTOR]: Okay. And what happened when you got out of your car?
>
> [GOELLER]: I seen them and I told him he had to leave the parking lot; he couldn't be on the parking lot.
>
> [PROSECUTOR]: And why did you tell him that he had to leave the parking lot?
>
> [GOELLER]: Because he was begging for money and knocking on people's windows asking them for money.
>
> [PROSECUTOR]: Okay. Is that allowed on the property?
>
> [GOELLER]: He was not allowed on the property. He was banned from the property.

Defense counsel objected and the court ruled that it would "strike anything after the word 'no,' which was to the original question."[6] Immediately thereafter, the prosecutor asked Goeller, "[t]o your personal knowledge, is [Appellant] allowed on the property?" Goeller responded, "No." Defense counsel objected and, at the bench conference that followed, she argued the word "banned" drew "a legal conclusion." When the court clarified that the question was whether Appellant was allowed on the property, defense

[6] Our review of the transcript does not reveal the use of the word "no" anywhere in this line of questioning.

counsel asserted that Goeller "continues to respond that he's 'banned' from the property" and he "said 'banned' multiple times."

When the court offered to strike the word "banned," defense counsel argued that Goeller should not be permitted to make "a legal conclusion about whether or not my client is permitted on the property." She stated, "[i]f the State wants to call an officer that produces some type of trespassing notice that's been given to my client, or something from an official manager that says he's banned, that's one thing, . . . but there is no official banning (unintelligible at 10:50:21)." The prosecutor asserted she was "not trying to elicit that [Appellant] was banned, just that he was not allowed on the property." Defense counsel pointed out that even if the State were to formulate a narrow question, it would not be possible to forecast what Goeller would say. At that point, the court reversed its position, stating:

> You know what? I'm going to sort of reverse my position on this, actually, before we engage more on this. We've already gotten in he's not allowed on the property. He's able to know that as an agent of the business. If you have a general awareness that somebody is banned without asking more question about "Well, who told you that?" and this and that, those would certainly be hearsay, but he is an agent of the business. I think, to enforce a trespass, anyone can say, "I'm aware you're not supposed to be here," and tell people they're not allowed.
>
> So, I'm going to actually reverse my position on this. I'm going to, at this point, overrule the objection. So, I mean, we're pretty far away from the question. If you feel like you need to re[-]ask it, you can, but I'm not going to do – I'm going to overrule the objection and I don't think you need to re[-]ask the question. Everything comes in. So, I'm overruling the objection, but as far as what – "How do you know that? Who told you that?" that's clearly hearsay.

On appeal, Appellant argues the testimony that he was not allowed on the Market's property was unfairly prejudicial because it was likely to cause the jury to speculate that he was banned because he had done something bad in the past or to infer that he "was a thief, or was trespassing, or had done something else illegal in the past." According to Appellant, after hearing he "had previously been banned from the Markets' property, the jury was more likely to see him as guilty based on a propensity to commit bad acts or a general bad character." Relying on Maryland Rule 5-403[7], Appellant argues that any probative value the evidence might have had was substantially outweighed by the danger of unfair prejudice.

Appellant further argues the error in allowing testimony that he was not allowed on the property was not harmless beyond a reasonable doubt because the jury had to consider his claim of self-defense and determine whether he was the first aggressor and whether he was justified in defending himself against Goeller's attacks. According to Appellant, if the jury decided he "had a bad character, a propensity to commit crimes, or a history of committing crimes on the Markets' property, they would be more likely to unfairly conclude that he started the fight with Mr. Goeller and was acting aggressively rather than in justified self-defense."

[7] Maryland Rule 5-403 provides:

> Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

The State counters by arguing the arguments raised by Appellant on appeal were not preserved properly for our consideration because Appellant objected on different grounds, specifically that Goeller's testimony about statements by a store manager or security officer would constitute hearsay and his testimony about a ban would constitute a legal conclusion. As explained below, this issue was waived and was not preserved properly for our consideration.

B. Waiver

Reversal is not warranted in this case because the same information complained of by Appellant was admitted without objection through other testimony. *DeLeon v. State*, 407 Md. 16, 31 (2008) ("Objections are waived if, at another point during the trial, evidence on the same point is admitted without objection."); *Tichnell v. State*, 287 Md. 695, 715-16 (1980) (even objected to alleged errors are not preserved for our review where the alleged inadmissible evidence is admitted earlier or later without objection); *Williams v. State*, 131 Md. App. 1, 26 (2000) ("When evidence is received without objection, a defendant may not complain about the same evidence coming in on another occasion even over a then timely objection.").

On direct examination, Diana Mendez testified, without objection, that Goeller told Appellant, "[m]an, you know you're not supposed to be on the property." Mendez continued, stating, "[h]e didn't say it nastily." He just said, "[y]ou know you're not supposed to be on the property. Why are you on the property?" A short time later, Mendez testified that Goeller told Appellant, "[y]ou know you're not supposed to be on the

property." Because Appellant did not object to Mendez's testimony, he waived his argument with respect to Goeller's testimony.

C. Specific Ground for Objection

Even if the issue had not been waived as a result of the failure to object to Mendez's testimony, reversal would not be warranted because, at trial, Appellant stated a specific ground for objection and never argued, as he does on appeal, that Goeller's testimony stating Appellant was not allowed on the property suggested his propensity to commit bad acts or his general bad character. Ordinarily, an appellate court will not consider any point or question unless "it plainly appears by the record to have been raised in or decided by the trial court." Md. Rule 8-131(a); *Robinson v. State*, 404 Md. 208, 216 (2008). The rule serves two primary purposes: "'(a) to require counsel to bring the position of their client to the attention of the lower court at the trial so that the trial court can pass upon, and possibly correct any errors in the proceedings, and (b) to prevent the trial of cases in a piecemeal fashion, thus accelerating the termination of litigation.'" *Fitzgerald v. State*, 384 Md. 484, 505 (2004) (quoting *County Council v. Offen*, 334 Md. 499, 509 (1994)). A "contemporaneous general objection to the admission of evidence ordinarily preserves for appellate review all grounds which may exist for the inadmissibility of the evidence." *Boyd v. State*, 399 Md. 457, 476 (2007). An objection loses its status as a general one, however, when the trial court requests that the ground for an objection be stated, or when a party voluntarily states specific grounds for an objection at trial. *DeLeon*, 407 Md. at 25. In such cases, the party objecting "will be held to those grounds and ordinarily waives any grounds not specified that are later raised on appeal." *Klauenberg v. State*, 355 Md. 528,

541 (1999); *see also Perry v. State*, 229 Md. App. 687, 709 (2016) (explaining that when an appellant states specific grounds when objecting to evidence at trial, he or she forfeits all other grounds for objection on appeal).

On a number of occasions, defense counsel stated a specific ground for her objection to Goeller's testimony – that it constituted or drew a legal conclusion about whether Appellant was banned from, or was not permitted to be in, the parking lot of the Market. Defense counsel stated that in order to introduce evidence that Appellant was trespassing or was banned from the property, the State would need to present testimony from an "official manager" or a police officer. At no time did defense counsel argue that Goeller's testimony that Appellant was not allowed on the property suggested his propensity to commit bad acts or his general bad character.

D. Relevance

Even assuming, *arguendo*, that Appellant's arguments on appeal were properly before us, he would fare no better. "[T]he admission of evidence is committed to the sound discretion of the trial court." *Montague v. State*, 471 Md. 657, 675 (2020) (quoting *Portillo Funes v. State*, 469 Md. 438, 479 (2020)). An abuse of discretion occurs "'where no reasonable person would take the view adopted by the [trial] court,' 'when the court acts without reference to any guiding rules or principles,' or when the court's 'ruling is clearly against the logic and effect of facts and inferences before the court.'" *State v. Alexander*, 467 Md. 600, 620 (2020) (quoting *Alexis v. State*, 437 Md. 457, 478 (2014) (quotation marks and citations omitted)).

In determining whether to admit evidence, the trial court must decide whether the evidence is legally relevant and, if so, "whether the evidence is inadmissible because its probative value is outweighed by the danger of unfair prejudice, or other countervailing concerns as outlined in Maryland Rule 5-403." *State v. Simms*, 420 Md. 705, 725 (2011). Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Md. Rule 5-401. "[O]nce a trial court has made a finding of relevance, we are generally loath to reverse the trial court unless the evidence is plainly inadmissible under a specific rule or principle of law or there is a clear showing of an abuse of discretion." *Decker v. State*, 408 Md. 631, 649 (2009) (internal quotation marks and citations omitted). We review questions of relevance *de novo*. *Montague*, 471 Md. at 673.

In the case at bar, Appellant argued that he acted in self-defense. In her opening statement, defense counsel stated that Goeller "took it upon himself to initiate a confrontation with [Appellant]." Counsel continued:

> He aggravated the situation by arguing with him about whether or not he needed to be there, and when it escalated to a confrontation – a physical confrontation – he escalated it to violence.
>
> Ladies and gentlemen, the State has framed this as Mr. Goeller was enforcing a ban; that he was telling [Appellant] to leave the area he's banned from. He was in a parking lot. I encourage you all to listen very carefully to the details of this case, everything that the State is obligated to prove. They're obligated to prove that my client assaulted Mr. Goeller unprovoked. All [Appellant] did that day was attempt to live his life and walk across the parking lot. Mr. Goeller is the only one who initiated this confrontation, and had he just let [Appellant] live, we would not be here. [Appellant], upon being confronted by someone who was bigger than him both in height and stature at the time, [Appellant] defended himself. He wanted to just keep

> living his life and walking away. It was Mr. Goeller who initiated, who aggravated, and who escalated this incident.

Testimony that Goeller knew Appellant was not allowed to be on the premises was probative of Goeller's state of mind when he initiated verbal contact with Appellant because it supported the assertion that Goeller had a legitimate reason for telling Appellant he had to leave. This was relevant to the claim of self-defense and whether Goeller initiated the first act of aggression. The trial court could reasonably determine the probative value of Goeller's testimony was not substantially outweighed by the danger of unfair prejudice. For this reason, even if the issue had not been waived and was properly before us, we would conclude that the circuit court did not abuse its discretion in admitting Goeller's testimony.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; COSTS TO BE PAID BY APPELLANT.