Circuit Court for Baltimore City
Case No.: 119219002

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 493

September Term, 2021

SHAWN CROCKETT

v.

STATE OF MARYLAND

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

JJ.

Opinion by Wells, J.

Filed: March 3, 2022

Appellant, Shawn Crockett, was indicted in the Circuit Court for Baltimore City and charged with attempted murder and related charges. Following a jury trial, Crockett was convicted of attempted first-degree murder, use of a firearm in the commission of a crime of violence, illegal possession of a firearm after a prior disqualifying conviction, wearing, carrying, or transporting a handgun, reckless endangerment, and discharging a gun inside city limits. Crockett was thereafter sentenced to: life imprisonment for attempted first-degree murder, with all but the first thirty years suspended; ten years, concurrent, for unlawful use of a firearm in the commission of a crime of violence, the first five years without possibility of parole; five years, concurrent, for illegal possession of a firearm after a prior disqualifying conviction; and, one year, concurrent, for discharging a gun inside city limits, the remaining counts having merged, all to be followed by three years' supervised probation. In this timely appeal, Crockett asks us to address the following question:

> Did the trial court err or abuse its discretion in refusing to propound Crockett's requested *voir dire*?

For the following reasons, we shall affirm.

BACKGROUND[1]

On June 17, 2019, Mark Langford got on a bus in downtown Baltimore, near

[1] Our summary of the trial record is intended to provide context for the issues raised in this appeal, rather than a comprehensive review of the evidence presented. *See Holmes v. State*, 236 Md. App. 636, 643, *cert. denied*, 460 Md. 15 (2018); *see also Thomas v. State*, 454 Md. 495, 498-99 (2017) ("Because the issue dispositive of this appeal does not require a detailed recitation of the facts, we include only a brief summary of the underlying evidence that was established at trial.")

Howard and Fayette Streets, and was on his way from work to visit his mother. While en route, Crockett approached Langford and started an argument, claiming that Langford knew a woman who stole approximately one hundred dollars' worth of drugs from him. Langford told Crockett he did not know anything about that, testifying, "[w]hat it got to do with me?" Langford further testified that he knew Crockett from the neighborhood by his first name, "Shawn." In fact, he knew Crockett for a little less than a year prior to this incident.[2]

Crockett followed Langford when he got off the bus near the 4200 block of Frederick Avenue. After walking a half block while Crockett followed him and continued to argue, Langford turned around and saw that Crockett was armed with a black handgun. Langford testified that it was at this point that Crockett shot him. Langford then ran around a corner and passed out.

First responders found Langford bleeding on the sidewalk near the intersection of South Woodington and the 4200 block of Frederick Avenue, at around 6:34 p.m., across from Mt. St. Joseph High School. Langford had been shot three times, including once in his upper back and twice in the back of his neck, but survived.

Police detectives subsequently interviewed Langford while he was recuperating in the hospital and identified Crockett as the man who shot him, "for nothing." He also identified Crockett in court as the man that shot him.

We shall include additional detail in the following discussion.

[2] A closed-circuit television recording from the bus was admitted into evidence and played for the jury during Langford's testimony.

DISCUSSION

Crockett's sole contention on appeal is that the trial court erred in refusing to ask his requested *voir dire* question, asking the prospective jurors whether any of their immediate family members were employed in law enforcement or had been a victim of crime. The State responds that the court acted within its discretion in declining to ask the requested question. We agree.

During *voir dire*, the court asked if any prospective juror had been employed in law enforcement or if they had been a victim of crime. Specifically, the court asked:

> Have you ever been trained or employed in the law, law enforcement or a law related field? In other words, have you ever been trained or employed as a law clerk, paralegal, Judge, legal secretary, lawyer or Court employee, been trained or employed as a law enforcement, corrections, security, parole or probation officer or investigator, or studied law, criminology, forensic science or any similar field of study or worked in a related occupation not already identified? Any legal or law enforcement background.[3]

And:

> Have you ever been a victim of a crime of violence or a witness to a crime or arrested for, charged with or convicted of a crime other than a minor motor vehicle violation? Oh, I had someone stand up once because they said they saw someone smoking marijuana at a party. If that's the only reason you're standing up, you can sit down.[4]

At the conclusion of *voir dire*, defense counsel requested the court include additional questions, as follows:

[3] Sixteen prospective jurors responded affirmatively to this question.

[4] Twenty-seven prospective jurors responded affirmatively to this question.

> [DEFENSE COUNSEL]: Your Honor, I think it was included on my voir dire and I'm sorry that I missed it on yours and I had forgotten that you don't ask but I obviously for victim of crime, convicted of crime, et cetera and also for law enforcement employees and employment in the law, I generally request that the Court ask for immediate family as well.
>
> THE COURT: Okay. All right. I'm not going to ask it but I appreciate that that was part of your request in voir dire.
>
> [DEFENSE COUNSEL]: Okay. Well, then would the Court take an exception then?
>
> THE COURT: You don't have to, but you've made your record. I understand.[5]

The right to an impartial jury is guaranteed by the Sixth Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment and Article 21 of the Maryland Declaration of Rights. *See Wright v. State*, 411 Md. 503, 507 (2009). And the "overarching purpose of voir dire in a criminal case is to ensure a fair and impartial jury." *Id.* at 508 (quoting *Dingle v. State*, 361 Md. 1, 9 (2000)). To that end, Maryland has adopted a "limited *voir dire*," in which the "sole purpose of voir dire is to ensure a fair and impartial jury by determining the existence of cause for disqualification." *Washington v. State*, 425 Md. 306, 312 (2012); *accord Pearson v. State*, 437 Md. 350, 356 (2014). In contrast to most other jurisdictions, "the intelligent exercise of peremptory challenges" is

[5] At the conclusion of selection of the jury and the alternates, defense counsel indicated the jurors selected were acceptable, with no further objection. There is no argument that the appellant's claim is unpreserved for our review. *See generally*, *State v. Ablonczy*, 474 Md. 149, 166 (2021) (holding that the objection to the court's refusal to ask certain *voir dire* questions was not waived when defense counsel ultimately accepted the empaneled jury) (citing *State v. Stringfellow*, 425 Md. 461 (2012)).

not a purpose of *voir dire* in Maryland. *Washington*, 425 Md. at 312 (citation omitted); *accord Kazadi v. State*, 467 Md. 1, 46 (2020).

We review a trial judge's decision not to ask a requested *voir dire* question for abuse of discretion. *Pearson*, 437 Md. at 356. A trial court abuses its discretion when it refuses to ask a *voir dire* question that is "'reasonably likely to reveal [a] [specific] cause for disqualification[.]'" *Id*. at 357 (quoting *Moore v. State*, 412 Md. 635, 663 (2010)). There are two areas that may reveal cause for disqualification: "(1) examination to determine whether the prospective juror meets the minimum statutory qualifications for jury service, and (2) examination to discover the juror's state of mind as to the matter in hand or any collateral matter reasonably liable to have undue influence over him." *Washington*, 425 Md. at 313 (citing *Davis v. State*, 333 Md. 27, 35-36 (1993)); *accord Thomas v. State*, 454 Md. 495, 505 (2017).

As to the latter, the mandatory areas of inquiry include bias arising from racial bias, *see Hernandez v. State*, 357 Md. 204, 225 (1999); religious bias, *see Casey v. Roman Catholic Archbishop*, 217 Md. 595, 607 (1958); or bias for or against a witness in the action based upon his or her occupation, status, category, or affiliation. *Thomas*, 454 Md. at 512. The court also must ask prospective jurors, if requested, whether they have "strong feelings" about the crimes charged. *See Collins v. State*, 463 Md. 372, 377 (2019). "If the proposed question does not further the goal of uncovering bias among prospective jurors, the trial court will not abuse its discretion in refusing to pose the question." *Washington*, 425 Md. at 325.

Appellant primarily relies on *Pearson v. State*, 437 Md. 350 (2014). In *Pearson*, all

of the State's witnesses in Pearson's trial for drug-related crimes were police officers. *Id.* at 354-55. The trial court there asked on *voir dire* whether any member of the jury panel (1) held "such strong feelings regarding violations of the narcotics laws that it would be difficult for you to fairly and impartially weigh the facts," or (2) would "be inclined to give either more or less weight to the testimony of a police officer than to any other witness in the case, merely because the witness is a police officer?" *Id*. at 355. The court refused to ask the following questions posed by Pearson's co-defendant: (1) whether any members of the jury panel or "any member of your family, [a] friend, or [an] acquaintance [has] been the victim of a crime; (2) whether the juror knew "anyone who is employed in the police department, prosecutor's office[,] or other law-enforcement agency;" and, (3) whether the juror was ever "a member of a law-enforcement agency, either civilian or military?" *Id*. at 354-55.

The Court of Appeals reaffirmed that Maryland does not follow the rule in other States—that *voir dire* questions may be used to elicit reasons for exercising peremptory challenges—but instead permits a *voir dire* question to be asked only if it is reasonably likely to reveal a specific cause for disqualification, either a statutory cause or "a collateral matter [that is] reasonably liable to have undue influence over" a prospective juror. *Id.* at 357 (citation omitted). The latter category is comprised of "biases directly related to the crime, the witnesses, or the defendant." *Id*. The Court explained:

> On request, a trial court must ask during *voir dire* whether any prospective juror has had an experience, "status, association, or affiliation [,]"**if and only if** the experience, status, association, or affiliation has "a *demonstrably strong correlation* [with] a mental state that gives rise to [specific] cause for disqualification."

Id. at 357-58 (second emphasis in original) (citations omitted).

As examples, the Court cited *Yopps v. State*, 234 Md. 216, 221, *cert. denied*, 379 U.S. 922 (1964), and *Perry v. State*, 344 Md. 204, 217-19 (1996), *cert. denied*, 520 U.S. 1146 (1997). *See Pearson*, 437 Md. at 358. In *Yopps*, a burglary case, the Court of Appeals held that, even if properly presented, the trial court did not err or abuse its discretion in declining to ask "whether any members of the panel of jurors or his or her family had had a house burglarized" because that question "did not relate to a cause of disqualification under the circumstances." *Yopps*, 234 Md. at 221.

In *Perry*, a murder-for-hire case, Perry claimed the trial court erred in not asking the following question during *voir dire*: "Has any member of the prospective jury panel or a member of your family or a close personal friend of yours ever had a prior experience as a juror, witness, victim or defendant in any criminal homicide or aggravated assault proceeding?" *Perry*, 344 Md. at 217-18. The Court disagreed, noting that:

> A juror's having had prior experience as a juror, witness, victim or defendant in a criminal proceeding of any kind, or in one involving a crime of violence, is not per se disqualifying. *It is even less tenable to argue that a juror is disqualified simply because of the experience of a member of the prospective juror's family or on the part of a close personal friend*.

Perry, 344 Md. at 218 (citing *Yopps*, *supra*) (emphasis added).

Applying these principles from *Perry* and *Yopps*, the *Pearson* Court held that a trial court *is not* required to ask whether a juror has been the victim of a crime, but *is* required to ask (1) whether a juror has "strong feelings" about the crime with which the defendant is charged, subject to a follow-up elicitation of whether any such strong feelings would constitute specific cause of disqualification; and, (2) whether a juror had ever been a

member of a law enforcement agency where the basis of a conviction is reasonably likely to be the testimony of members of a law enforcement agency. *Pearson*, 437 Md. at 359-369.

With respect to the questions concerning victims of crime, the Court explained that "a prospective juror's experience as the victim of a crime lacks 'a demonstrably strong correlation [with] a mental state that gives rise to [specific] cause for disqualification.'" *Id.* at 359 (citation omitted). Moreover, such a question "may consume an enormous amount of time," and may be fairly covered by the "strong feelings" question. *Id*. at 359-60 (citations omitted).[6]

With respect to the question asking whether the prospective juror was a member of, or knew anyone employed in a law enforcement agency, the Court clarified:

> Here, we hold only that, where all of the State's witnesses are members of law enforcement agencies and/or where the basis for a conviction is reasonably likely to be the testimony of members of law enforcement agencies, a trial court must, upon request, inquire as to whether a prospective juror him or herself is a member of a law enforcement agency.

Id. at 368 (discussing *Dingle, supra*, and overruling *Davis, supra*).

However, the Court then went on to note that, in *Pearson*:

> To be clear, the circuit court did not abuse its discretion in declining to ask during *voir dire* whether any prospective juror's acquaintance had ever been a member of a law enforcement agency. As Pearson conceded at oral argument, the proposed *voir dire* questions were "overbroad[.]" *See Perry*, 344 Md. at 218, 686 A.2d at 281 ("It is even less tenable to argue that a

[6] The *Pearson* Court ultimately reversed because the trial court's "strong feelings" *voir dire* question, although in compliance with *State v. Shim*, 418 Md. 37, 54 (2011), was inconsistent with the restriction against compound questions under *Dingle, supra*. *See Pearson*, 437 Md. at 361-364.

> [prospective] juror is disqualified simply because of the experience of a member of the prospective juror's family or on the part of a close personal friend.").

Pearson, 437 Md. at 369 n.6.

Here, the court asked the prospective jurors whether they had been employed in law enforcement or if they had been a victim of crime. The court declined to ask Crockett's expansion of those questions to include members of the prospective jurors' immediate family. We discern neither error nor abuse of discretion.[7]

Moreover, we agree with the State that any issue as to bias was fairly covered by other questions. For example, to the extent that employment by a prospective juror's immediate family members in law enforcement might cause that prospective juror to give more or less credit to the testimony of such a witness, that potential was fairly covered when the venire was asked: (1) whether they would "apply the same standards for judging the testimony of a police officer or law enforcement officer as you would apply to any other witness;" or, (2) whether they would "tend to believe or disbelieve the testimony of a law enforcement officer over the testimony of any other witness?" The prospective jurors were also asked whether they, themselves, or a "close friend or relative," were familiar

[7] We further note that, although police officers testified in this case, the primary evidence against appellant came from the surviving victim, Langford. An argument could be made that, where the evidence from the police officers was ancillary, at least under these circumstances, the need for the law enforcement question even as to the jurors themselves was subject to debate. It follows that the same would be true for members of the venire's immediate family. In any event, although *Pearson* indicates the crime victim question is not required, *Pearson*, 437 Md. at 359, the trial court in this case did ask the prospective jurors that same question.

with the State's Attorney for Baltimore City, or any employee of that office, or any of the police detectives in this case, through "any family, social business or other contact."

In addition to these questions pertaining to law enforcement, the venire was informed that this case concerned crimes of attempted murder, assault and use of a handgun. They were then asked whether they had "strong feelings about these crimes or about the use of firearms?"[8] And, finally, the trial judge concluded juror selection with the following:

> 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? [9]

As the Court of Appeals reminds us, our review of the trial judge's rulings on these matters requires us to consider "the voir dire process *as a whole* for an abuse of discretion, that is, questioning that is not reasonably sufficient to test the jury for bias, partiality, or prejudice." *Washington*, 425 Md. at 314 (emphasis added). In considering the totality of the circumstances and recognizing that the present issue concerns immediate family members, the record shows that approximately twenty-three prospective jurors revealed at the bench that they had relatives or close acquaintances who either worked in law enforcement or had been victims of crime. Under this scenario, we are persuaded that the trial court neither erred nor abused its discretion in declining Crockett's request to ask the

[8] Forty-five prospective jurors responded affirmatively.

[9] There was no response.

venire whether members of their immediate family had been either victims of crime or affiliated with law enforcement.

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