

Circuit Court for Baltimore City
Case No. 120195033

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1108

September Term, 2023

DEVON CORTAZ SAMPLE

v.

STATE OF MARYLAND

Arthur,
Albright,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: October 30, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal asks us to consider two unrelated legal questions. First, we consider whether the State produced sufficient evidence at trial to sustain the Appellant’s criminal convictions. Second, we are asked to consider whether the trial judge properly admitted a portion of Appellant’s statement to police that was made before he was Mirandized. The second claim, however, as we will discuss, has been waived. We affirm the Circuit Court for Baltimore City and uphold the Appellant’s convictions.

PROCEDURAL AND FACTUAL BACKGROUND

The appellant, Devon Cortaz Sample, was indicted by the State’s Attorney for Baltimore City on the following nine charges:

1. First-degree murder of victim Shiand Miller
2. First-degree murder of victim Shaniya Gilmore
3. First-degree murder of the unborn, viable baby carried by Shiand Miller
4. Violence against a pregnant person
5. Use of a firearm in the commission of a violent crime
6. Use of a firearm in the commission of a violent crime
7. Use of a firearm in the commission of a violent crime
8. Possession of a handgun in a vehicle on a public road
9. Wear and carry a handgun on person

A seven-day jury trial was held in the Circuit Court for Baltimore City at the end of July 2023. The jury found Mr. Sample guilty of all nine counts against him on August 1, 2023. He waived his right to a presentence investigation and was sentenced the same day to three consecutive life sentences without the possibility of parole plus seventy years. Appellant timely noted this appeal.

The State elicited evidence to show that on the evening of June 18, 2020, Shiand Miller, who was about 32 weeks pregnant at the time, and her three-year-old daughter were shot and killed inside Ms. Miller’s vehicle that was parked on the 200 block of Boswell

Road in Baltimore City, Maryland. The shooting victims were not discovered until the next day when a neighbor noticed a woman slumped over inside of the parked vehicle¹ on her street and called 9-1-1. Shortly thereafter, numerous police officers, detectives, and other emergency personnel arrived and began to process the scene. Officer Seung Choi approached the vehicle and discovered through the open passenger window a deceased, visibly pregnant woman slumped over in the front seat and a deceased toddler who appeared to be attempting to crawl from the back seat to her mother in the front seat when she died. Detective Melva Greene found and collected two shell casings from the ground near the driver's side door. Two additional shell casings were recovered from inside the vehicle. A cigarette butt with unknown DNA was recovered from the ground on the driver's side of the vehicle.

Detective Eric Ohmstede also responded to the crime scene on Boswell Road. He canvassed the area and located multiple surveillance cameras at a home on the same block where the murders occurred. Detective Ohmstede reviewed the footage and determined that the shooting was captured from two different angles. The details of what exactly was captured by the surveillance footage will be discussed below.

Detective Ohmstede continued his investigation by utilizing police databases to obtain the names of people (males) who were in Ms. Miller's life. His search produced, among others, a Jontay Gilmore, who was the father of the deceased toddler. Mr. Gilmore, however, was incarcerated at the time of the shooting. Detective Ohmstede also obtained

¹ The parked vehicle was a gray or silver four-door sedan, a Subaru Legacy, that belonged to the victim Shiand Miller.

the Appellant's name and discovered that he was in a long-term relationship with Ms. Miller and was the father of her unborn child. Evidence was produced at trial to show that this was going to be Mr. Sample's first child. It was also shown that Mr. Sample had been an active presence in toddler Shaniya Gilmore's life. It was brought out at trial that Mr. Sample and Ms. Miller's relationship was one where they were "fussing all the time." Mr. Sample was not happy when he initially found out that Ms. Miller was pregnant because he was not ready for kids but he eventually accepted it. That information was brought out through the testimony of Anita Parham, Appellant's grandmother, with whom he lived.

Anita Parham also testified about the nature of her relationship with the deceased. She testified that she had a close relationship with Ms. Miller and with Ms. Miller's daughter, Shaniya. Ms. Parham told the jury that Ms. Miller was her best friend and would even sometimes call her grandma. She also told the jury that she would sometimes babysit Shaniya. Appellant and Ms. Parham lived about half a mile from the scene of the crime. On the evening of the murders, according to Ms. Parham's testimony, Ms. Miller stopped by her house to use the bathroom and she stayed for a few minutes. When she left in her gray or silver Subaru Legacy, Ms. Parham told her to text her to let her know that she got home safe but that she never did.

The surveillance footage showed two vehicles, a light-colored sedan and a dark-colored SUV, pulled over on the side of the road. The sedan was positioned behind the SUV. In the footage, a person can be seen walking from the driver side of the car to the passenger side, at which point some of the sedan's rear lights turn off. This same person

can be seen walking to and from either side of the car. A muzzle flash appears at a time when the person is on the passenger side of the car. The person then returns to the driver side of the car and another muzzle flash can be seen. Shortly thereafter, the SUV's lights turn on and it drives away leaving the sedan parked on Boswell Road where it, and the deceased victims inside it, were located the next day.

The dark-colored SUV depicted in the surveillance footage was consistent with a black BMW X6 identified by Anita Parham as the Appellant's vehicle. Ms. Parham identified the Appellant's SUV from a video presented at trial that showed it parked in front of her house during the daytime hours of June 18, 2020. She further testified that she had seen Appellant driving his SUV on that date and that he had been at home, inside his vehicle, around 10:30 PM. This, however, was not what she had initially told police. She testified that when the police initially came to her home on June 19, 2020, looking for Appellant, she lied to them and said he was not home because she did not know why they were there and she was intimidated by them. She ultimately revealed that Appellant was home and upstairs in his bedroom after the police told her they were going to obtain a search warrant. The Appellant was taken into custody at that time.

On the same day that he was taken into custody, Appellant was interviewed by the police. Prior to giving Appellant his Miranda² warnings, the police asked him if he had a girlfriend to list as an emergency contact and he responded, "That was my girlfriend slash mom right there, Shiand." Appellant was then given Miranda warnings. He waived his

² Miranda v. Arizona, 384 U.S. 436 (1966).

Miranda rights and spoke to the police. In that conversation with police, Appellant admitted to being with the victim on the night of the murders. He further admitted that they were each driving their own cars when they parked to chat on a street near a school and a large truck. He maintained, however, that he did not own a gun and that he was not the person who shot and killed the victims.

QUESTIONS PRESENTED

Appellant presents us with the following two questions, which we have rephrased:

- 1. Was the evidence legally sufficient to support the jury’s conviction of the Appellant, Devon Cortaz Sample, for charges related to the murders of Shiand Miller, Shaniya Gilmore, and Miller’s unborn child?**
- 2. Did the trial court properly admit the portion of Appellant’s statement to the police that preceded his *Miranda* advisements?**

STANDARD OF REVIEW

The appellant’s first contention asks us to review the sufficiency of the evidence to support his convictions. In reviewing sufficiency of the evidence claims, appellate courts consider whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” State v. McGagh, 472 Md. 168, 194 (2021) (quoting Jackson v. State, 443 U.S. 307, 319 (1979)). Under this deferential standard, the reviewing court does not “ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.” McGagh, 472 Md. at 194 (quoting Dawson v. State, 329 Md. 275, 281 (1993)). Rather, this Court asks itself whether the trier of fact could “fairly” find the defendant guilty “of the offenses charged beyond a reasonable doubt” based on the evidence presented at trial regardless of whether that evidence is “direct or circumstantial.”

McGagh, 472 Md. at 194 (quoting Taylor v. State, 346 Md. 452, 457 (1997)). Additionally, we consider “not only the evidence in a light most favorable to the State, but also all reasonable inferences deducible from the evidence in a light most favorable to the State.” Smith v. State, 415 Md. 174, 185–86 (2010).

This Court made clear in Ross v. State, 232 Md. App. 72, 98 (2017), that the choice of which inference to draw is exclusively the province of the jury:

[I]f two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the [fact finder] and not that of a court assessing the legal sufficiency of the evidence.

(Emphasis supplied). We reasoned that the fact finder, in this case the jury, is better positioned to assess the credibility of witnesses than a reviewing court. Ross v. State, 232 Md. App. 72, 99 (2017) (quoting Smith v. State, 415 Md. 174 (2010)).

The Appellant’s second contention requires us to consider whether he has preserved or waived his right to challenge the admissibility of his statement. Ordinarily, an appellate court reviewing a suppression of evidence claim looks to the original record of the suppression hearing and accepts the findings of the suppression court unless clearly erroneous with the evidence viewed in the light most favorable to the prevailing party. State v. Tolbert, 381 Md. 539, 850 A.2d 1192 (2004); State v. Rucker, 374 Md. 199, 821 A.2d 439 (2003). However, as the Maryland Supreme Court stated in Prioleau v. State, 411 Md. 629, 638 (2009) (quoting Tolbert, 381 Md. at 548), “We undertake our own independent constitutional appraisal of the record by reviewing the law and applying it to the facts of the present case.”

DISCUSSION

I. Appellant’s convictions were supported by sufficient evidence.

Appellant argues first that the evidence presented by the State at trial was insufficient to allow a reasonable jury to find him guilty of the crimes as charged. As mentioned previously, to prevail on this claim an appellant must show that no rational trier of fact could have found the essential elements of the crime(s) beyond a reasonable doubt with the evidence viewed in the light most favorable to the State. State v. Suddith, 379 Md. 425, 429 (2004); Jackson v. Virginia, 443 U.S. 307, 319 (1979); Cerrato-Molina v. State, 223 Md. App. 329, 351 (2015). It does not matter whether the evidence presented is of a direct or of a circumstantial nature. Cerrato-Molina v. State, 223 Md. App. at 351. Indeed, a conviction may be based “on circumstantial evidence alone.” Jensen v. State, 127 Md. App. 103, 117 (1999). The fact finder, moreover, is allowed to choose which inference to draw in the face of two rational inferences. Ross v. State, 232 Md. App. 72, 98 (2017).

Under this strict standard, we are convinced that the State’s evidence was sufficient to support the jury’s verdicts in this case. A black SUV consistent with the description of Appellant’s vehicle was visible in the surveillance footage. Indeed, Appellant admitted to police that he drove his SUV to meet up with Ms. Miller, who was in her own vehicle, and that the location where they met up was near a “big ass truck.” The surveillance footage indeed shows a large truck parked nearby. It was up to the jury to determine, as they did, that the vehicles and area depicted on the surveillance footage matched Appellant’s vehicle and the area he described driving to with Ms. Miller to the police.

The Appellant argues that there was no direct evidence linking him to the murders. Direct evidence, however, is not required to sustain a conviction. In Ross, 232 Md. App. at 98, we stated:

Even in a case resting solely on circumstantial evidence, and resting moreover on a single strand of circumstantial evidence, if two inferences reasonably could be drawn, one consistent with guilt and the other consistent with innocence, the choice of which of these inferences to draw is exclusively that of the fact-finding jury and not that of a court assessing the legal sufficiency of the evidence. The State is **NOT** required to negate the inference of innocence. It is enough that the jury must be persuaded to draw the inference of guilt.

(Emphasis in original). Clearly, the jury was permitted to draw the inference that the vehicle depicted in the surveillance footage did indeed belong to the Appellant based on the evidence presented by the State. It was their prerogative to draw inferences of guilt over inferences of innocence.

The State also presented evidence to allow the jury to reasonably infer that the Appellant had access to a gun consistent with the murder weapon. Investigators recovered cartridge cases from the scene of the murder that were consistent with having been fired from a Glock. The Appellant’s grandmother testified that she saw the Appellant with a gun two months before the murder. Furthermore, images of a gun consistent with a Glock were recovered from the Appellant’s cell phone as well as images of him holding an extended magazine consistent with the type of ammunition used by a Glock. Notably, the images of the Appellant with the ammunition were taken a mere two days before the murders. We stated in Francois v. State, 259 Md. App. 513, 530, *cert. denied*, 486 Md. 243 (2023), that a defendant’s possession of a gun “just days before the incident” had special relevance to

the determination of whether the defendant actually possessed a handgun on the date of the incident. The jury was permitted to infer that the Appellant did in fact have access to a firearm despite his protestation to the contrary.

II. Appellant has waived the right to challenge the admissibility of his statement under Maryland Rule 4-252.

The Appellant argues in his appellate brief that his constitutional rights were violated when the trial court allowed the portion of his visually recorded statement that was made before he received Miranda warnings to be played before the jury. He argues that the challenged portion of his statement was made while he was in the custody of the Baltimore City Police Department and while he was being interrogated by them. He correctly notes that it is a basic principle of law that a statement taken during custodial interrogation but before the defendant is informed of his Miranda rights may not be used by the State in its case in chief against the defendant. His claim, however, is waived.

Maryland Rule 4-252 concerns the consideration and resolution of mandatory motions in circuit court. Specifically Rule 4-252 states in part:

(a) Mandatory Motions. In the circuit court, the following matters shall be raised by motion in conformity with this Rule and if not so raised are waived unless the court, for good cause shown, orders otherwise:

- (1) A defect in the institution of the prosecution;
- (2) A defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense;
- (3) An unlawful search, seizure, interception, of wire or oral communication, or pretrial identification;
- (4) **An unlawfully obtained admission, statement, or confession**; and

(5) A request for joint or separate trial of defendants or offenses.

(Emphasis supplied).

The State correctly notes that the waiver provision of Maryland Rule 4-252 is strict. In Pugh v. State, 103 Md. App. 624, 656 (1995) (quoting Davis v. State, 100 Md. App. 369, 385 (1994)), we stated that the “failure to make a mandatory motion within the prescribed time limits, absent good cause to forgive the dereliction, bars all claims, even those full of constitutional merit.” The Appellant has failed to make any showing that there was good cause to explain his failure to file a motion to suppress as required by Rule 4-252. As such, we decline to consider his second contention.

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