

Circuit Court for Baltimore City
Case No.: 121063019

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1442

September Term, 2021

KENYETTA RILEY

v.

STATE OF MARYLAND

Graeff,
Zic,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 1, 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.

Following trial in the Circuit Court for Baltimore City, a jury found Kenyetta Riley, appellant, guilty of second-degree assault. The court sentenced him to four years' imprisonment. On appeal, appellant contends that the trial court abused its discretion in failing to sustain a defense objection to the State's closing argument. For the reasons explained below, we shall affirm.

BACKGROUND

On December 18, 2020, appellant and Brian Merchant, both of whom had been occupants of a group home in Baltimore City, got into a knife fight. Although, at one time, the two shared a room in the basement of the home, appellant at some point had been made the house manager and moved upstairs. Appellant testified that he entered the group home because he “got tired of the old me.” When asked: “What is ‘the old me’? What were you doing?” Appellant responded: “You know, go outside, getting high, partying, not taking responsibility paying for my own.” He said he was “[t]rying to grow up finally, make my momma proud before hey [sic] die.”

Both appellant and Merchant agreed that they had been in a disagreement and had been in a knife fight in the basement of the home, but they offered differing accounts of what specifically occurred.¹ Merchant testified that he decided to leave the group home. He said that, on the day of the fight with appellant, while packing his belongings he heard appellant running down the steps into his room in the basement. After the two argued and Merchant told appellant to leave, appellant produced two knives and stabbed him.

¹Much of the history of their disagreement is not recounted here because, given our resolution of this case, it is irrelevant to our analysis.

According to Merchant, appellant repeatedly said “I’m going to kill you.” Hospital records indicated that Merchant had, *inter alia*, “multiple stab wounds to head, left clavicular region, thorax, and abdomen.”

Appellant testified that he believed Merchant was angry with him because he (appellant) had recommended that Merchant be placed on a more restrictive treatment level after learning that Merchant was using drugs while in the program, which left Merchant at risk of being evicted from the group home.

Appellant testified that, on the day of the knife fight, he went to the basement upon Merchant’s request and assumed, based on prior conduct, that Merchant was going to apologize to him for an earlier argument. Instead, according to appellant, upon entering Merchant’s room, Merchant, who had his hands in his pants, said “if I’m not going to be in this program, you ain’t going to be in this program.” Appellant said that he disregarded the comment and turned around and started walking back upstairs. He claimed that, at that point, Merchant stabbed him in the back. A fight then ensued during which appellant found another knife in the basement and stabbed Merchant with it because “[he] was terrified for [his] life” because he knew Merchant to be “a dangerous man.” Appellant then ran upstairs, and Merchant followed him and the two got into a fistfight.

After the fight, appellant, who did not go to the police or to the hospital, gathered his possessions and called his sister who picked him up from the group home. At trial, he showed the jury a scar on his back which he claimed resulted from the knife wound inflicted by Merchant and explained that his sister, who worked at “the University,” had stitched it up.

At the conclusion of the trial, the jury acquitted appellant of attempted first-degree murder, attempted second-degree murder, first-degree assault, and wearing and carrying a dangerous weapon with intent to injure. However, as noted earlier, the jury convicted him of second-degree assault.

DISCUSSION

During the State’s closing argument, as part of an endeavor to discredit appellant’s version of events, the prosecutor made the following comment:

What makes sense ladies and gentlemen? Why would you go into someone else’s space, living space, that you say is a dangerous person, and stay there and then later claim that you were trying to protect yourself and you run?

He didn’t even go to the hospital. He showed you this scar on his shoulder, or whatever it was, well he also told you that he had a wild side in the past, so how do we know when that scar is from?

Appellant’s counsel then lodged a general objection which the court overruled. On appeal, appellant claims that the State’s argument was impermissible because, without a factual basis, it “implied that [appellant] was the sort of person who would get into knife fights.” Appellant also asserts that, even if there were a sufficient factual basis to make the comment, the comment was impermissible because it “invited the jury to infer that [a]ppellant had a criminal propensity.” As such, appellant asserts that the trial court abused its discretion in overruling the objection.

It is well settled that a “trial court has broad discretion when determining the scope of closing argument.” *Cagle v. State*, 462 Md. 67, 75 (2018) (citation omitted). “An abuse of discretion exists ‘where no reasonable person would take the view adopted by the [trial] court, or when the court acts without reference to any guiding rules or principles.’” *Id.*

(quoting *Alexis v. State*, 437 Md. 457, 478 (2014)). In *Carroll v. State*, 240 Md. App. 629 (2019), we explained:

What exceeds the limits of permissible comment or argument by counsel depends on the facts of each case. Thus, the propriety of prosecutorial argument must be decided contextually, on a case-by-case basis. Because a trial court is in the best position to evaluate the propriety of a closing argument as it relates to the evidence adduced in a case, the exercise of its broad discretion to regulate closing argument will not be overturned unless there is a clear abuse of discretion that likely injured a party.

Carroll, 240 Md. App. at 663 (cleaned up). Moreover, it is well settled that attorneys are afforded “great leeway in presenting closing arguments to the jury.” *Degren v. State*, 352 Md. 400, 429 (1999).

Under the circumstances of this case, we are not persuaded that the trial court abused its broad discretion in not sustaining appellant’s objection to the State’s closing argument. We disagree with appellant’s assertion that the State’s comment had no factual basis and that it unfairly showed he had a criminal propensity to engage in knife fights.

The State’s suggestion to the jury that appellant had a “wild side in his past” amounted to a fair inference drawn from the evidence which included appellant’s testimony that he wanted to shed “the old me” who used to, among other things “get high” on crystal meth, ecstasy, and marijuana. Moreover, the State’s suggestion that appellant’s scar was not suffered how appellant claimed, also amounted to a fair inference drawn from the foregoing evidence in conjunction with the evidence that appellant fled the scene before the police arrived and did not go to the hospital to seek medical attention after Merchant stabbed him as he claimed. In addition, nothing in the State’s allegedly objectionable comment even remotely suggested that appellant was the sort of person who had ever been

in a knife fight much less had a propensity for such fights. Rather, based on the foregoing, the State reasonably asked the jury to question the provenance of appellant's scar.

Consequently, we shall affirm the judgments of the circuit court.

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