Circuit Court for Montgomery County
Case No.: C-15-CR-22-000188

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1498

September Term, 2022

TROY EDWARD CURTIS

v.

STATE OF MARYLAND

Wells, C.J.,
Berger,
Harrell, Glenn T., Jr.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: September 20, 2023

*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).

Appellant, Troy Edward Curtis, was charged by indictment in the Circuit Court for Montgomery County with two counts of distribution of cocaine. Curtis was tried by a jury and convicted of one count of distribution of cocaine. The State entered a nolle prosequi as to the second count. The court sentenced Curtis to ten years of imprisonment. On appeal, Curtis presents one question for our review, which we have rephrased slightly:

> Did the circuit court abuse its discretion in giving a modified version of a pattern jury instruction?

Finding no error, we affirm.

BACKGROUND

At 8:30 p.m. on 27 January 2022, Officer John Anspach and other officers of the Montgomery County Police Department, Sixth District Special Assignment Team ("SAT"), were conducting surveillance in Gaithersburg in plain clothes and unmarked vehicles. One of the SAT officers reported a suspected controlled dangerous substances ("CDS") transaction implicating a white Kia sedan in the Shelburne Terrace area.

Officer Anspach responded to Shelburne Terrace and followed the white Kia sedan into an apartment complex. He observed the Kia sedan circle the complex three times before backing into a parking spot in front of one of the buildings on a dead-end lot of the complex. After five to ten minutes, the male driver of the Kia sedan exited the vehicle and approached the breezeway of 9936 Shelburne Terrace, where he was met by another male exiting the breezeway, the latter later identified as Curtis. Officer Anspach observed a brief exchange and what appeared to be a "quick handshake" before both men entered the

Kia sedan. The driver of the Kia returned to the driver's seat and Curtis entered the back seat of the vehicle.

Officer Anspach and other SAT officers followed the Kia from the apartment complex to a nearby Giant Food store. The Kia driver dropped Curtis off in front of the store, which Curtis entered. The Kia exited the parking lot, followed by several SAT officers.

Officer Anspach and Officer Michael Hartman remained at the Giant Food to observe Curtis. The officers saw Curtis exit the store and enter a green pickup truck parked in the lot. A few minutes later, Curtis was joined by another male who exited the Giant Food and entered the passenger seat of the pickup. Curtis attempted to start the pickup, but it stalled. Ultimately, the passenger was able to start the pickup and he drove out of the parking lot with Curtis in the passenger seat, followed by Officers Anspach and Hartman.

SAT Sergeant Neil Mohardt and Officer David Kocevar observed the white Kia speeding. They conducted a traffic stop. The sergeant identified Keith Bentley as the driver of the vehicle and Lauren Bentley as the front passenger. The sergeant testified that Bentley "was extremely nervous, fumbling over his words" and "visibly shaking." He observed also what he recognized, through his experience and training, as intravenous track marks on Ms. Bentley's arms and neck.

The sergeant questioned Bentley about his travels. He responded that he and Ms. Bentley were coming from the Giant Food Shopping Center and they had not stopped

anywhere else or met with anyone else prior to arriving at Giant Food. Sergeant Mohardt informed Bentley that he had just observed him meet with Curtis.

Bentley consented to a search of his person. The search revealed a plastic bag containing fentanyl pills in his outer flannel jacket pocket. The sergeant asked Bentley if he had just purchased the pills during his meeting with Curtis. Bentley denied purchasing the pills from Curtis, stating rather that he purchased them from an associate of Curtis in Baltimore. Upon further questioning, Bentley informed the sergeant that there was crack cocaine located between the center console and driver's seat of the white Kia, which, he stated, he had purchased from Curtis for $200. SAT Officer Andrew Richardson retrieved the item, which was analyzed later and confirmed to be 2.30 grams of cocaine. Bentley was arrested and transported to the police station.

Officers Anspach and Hartman followed the pickup and conducted a traffic stop of the vehicle for exceeding the posted speed limit. Curtis was asked to exit the vehicle, handcuffed immediately, and detained. Officer Hartman took a photograph of Curtis and sent it to the officers who had followed Bentley's vehicle. Officer Kocevar showed the photograph to Bentley. He identified Curtis as the person who had sold him crack cocaine earlier that evening. Following the positive identification by Bentley, Curtis was arrested. Officers conducted a search incident to arrest and recovered $200 from Curtis's hoody sweatshirt pocket and $1,000 from his left pants pocket. The denominations of the $200 matched the denominations of bills that Bentley indicated he had given to Curtis in payment for the crack cocaine.

At trial, Bentley testified that, on the night of 27 January 2022, he and his wife drove their Kia sedan to meet an individual, whom he identified as Curtis, to purchase crack cocaine. According to Bentley, he recognized Curtis because Ms. Bentley had purchased drugs from him on previous occasions. Bentley testified that he drove Ms. Bentley to the apartment complex to meet Curtis, who met them outside the building. Curtis told Bentley that he had locked himself out. Bentley agreed to give him a ride to the Giant Food store. In the car on the way to the Giant Food, Curtis handed the drugs to Ms. Bentley, in return for which Bentley handed Curtis $200 in cash.

Bentley testified further that, while he was at the police station following his arrest, the police spoke with him about cooperating with them on this case and allowed him to go home that evening without any criminal charges filed at that point against him. Bentley described his discussions with the police regarding his cooperation:

> [PROSECUTOR:] Did there come a time when you were with the police that they talked to you about possibly cooperating with them?
>
> [BENTLEY:] They talked to me about cooperating with them about this case, yes.
>
> [PROSECUTOR:] And what was discussed with you? What did they say to you about that?
>
> [BENTLEY:] Pretty much asked me if I wanted to go [to] jail or I wanted to stay home?
>
> [PROSECUTOR:] And what did that mean to you?
>
> [BENTLEY:] It meant a lot, meaning that I either went to jail right then, or I got to, got another chance.
>
> [PROSECUTOR:] When you were first asked about cooperating with the police, did you want to?

[BENTLEY:] No, I didn't.

[PROSECUTOR:] And did you speak to [Ms. Bentley] about it?

[BENTLEY:] Yes.

[PROSECUTOR:] Did you eventually change your mind?

[BENTLEY:] Yes.

[PROSECUTOR]: And did you agree to cooperate with them on January 27th? Or was there a later meeting with them where that came about?

[BENTLEY:] We agreed right then and then we had to meet with them later on to go over, go over what I paid for and that's about it.

[PROSECUTOR:] Now, when you had that meeting to go over the details, what was your understanding about the deal that you made with the police?

[BENTLEY:] As long as, pretty much, we testified, we, we wouldn't get charged pretty much. And we'd be able to go, go home.

[PROSECUTOR:] Now, you said testify. Were there any deals made about this trial at that point?

[BENTLEY:] No.

[PROSECUTOR:] So, what was, did the police say that the deal was going to be between the police and you and your wife?

[BENTLEY:] That if we pretty much cooperated with them about what's going on, that we get to go home.

[PROSECUTOR:] Just to explain to the jury, when you say cooperating, what does that mean?

[BENTLEY:] Like, come to court and like pretty much telling them the truth and not telling lies.

[PROSECUTOR:] Are we talking about other cases?

[BENTLEY:] No.

[PROSECUTOR:] So, when you made that deal with the police, were there, were you discussing undercover buys or things like that? Or what were you discussing with them?

[BENTLEY:] We was talking about, pretty much, what had happened.

[PROSECUTOR:] At that time, in January and in February and then you met with the officers, what officers are we discussing right now, which officer did you meet with?

[BENTLEY:] Officer [N]'Kodia.

[PROSECUTOR:] And you're saying that Officer [N]'Kodia at that point in time talked to you about testifying?

* * *

[BENTLEY]: The deal was pretty much, as long as, as long as me and [Ms. Bentley] worked [with] them that we wouldn't get charged.

[PROSECUTOR]: So, now, I guess, when you say work with them, what was that entailing for you and [Ms. Bentley]?

[BENTLEY:] That I wouldn't get more cases.

[PROSECUTOR:] Did Officer N'Kodia ever promise you anything related to this trial?

[BENTLEY:] No.

[PROSECUTOR:] Have I promised you anything related to this trial?

[BENTLEY:] No, ma'am.

[PROSECUTOR:] Any benefit that you might get because of this trial?

[BENTLEY:] No ma'am.

[PROSECUTOR:] Has anyone in my office promised you any benefit for testifying here today?

[BENTLEY:] No, ma'am.

[PROSECUTOR:] Are you currently still cooperating with the police?

[BENTLEY:] Well, I'm here.

[PROSECUTOR:] You personally?

[BENTLEY:] Yes.

[PROSECUTOR:] I know you're here by subpoena. But are you personally cooperating with the police?

[BENTLEY:] Evidently, not, no, I can't. Because I have an open case.

[PROSECUTOR:] Have one?

[BENTLEY:] Yes.

[PROSECUTOR:] What is your understanding on if your charge is cleared cannot come back, or be charged in the first place?

[BENTLEY:] They pretty much told us, as long as we cooperate with them, that we wouldn't get charged with what we got caught with.

The "other case" referred to by Bentley was his arrest (unrelated to the events of 27 January 2002) by the Maryland State Police and charged with possession of fentanyl. His criminal case related to that arrest was pending in the District Court of Maryland, sitting in Montgomery County, at the time of trial here.

Officer Yves-Didier N'Kodia testified that, on the evening of 27 January 2022, he met with Bentley and Ms. Bentley and told them, that "if [they] would like to cooperate with [the police], and work with the police to work with [their] charges, [they were] free to call [him]." On 1 February 2022, the Bentleys' agreements with the police were

confirmed after they reviewed and signed confidential informant contracts. Following the execution of the contracts, Officer N'Kodia's expectation was for the Bentleys to provide the police with information regarding known drug dealers in Montgomery County in order for the police to purchase drugs from those dealers and apprehend them. Officer N'Kodia stated that he did not promise Bentley anything in exchange for his testimony in this case.

At the close of all of the evidence, defense counsel requested Maryland Criminal Pattern Jury Instruction 3:13 on "witness promised benefit." The prosecution objected, arguing that there was no evidence that the police department promised Bentley anything in exchange for his testimony in this case. The trial court determined that the evidence on the existence of an agreement was in conflict, and advised the parties that it intended to give the jury a modified version of the pattern instruction on "witness promised benefit." Defense counsel objected to the modification proposed by the trial court and submitted an alternative modified instruction, which the court rejected. After the court gave its modified instruction to the jury, defense counsel objected to the instruction as given. The jury found Curtis guilty of one count of distribution of cocaine. This timely appeal followed.

DISCUSSION

Curtis argues that the trial court was required to give the pattern jury instruction regarding "witness promised benefit." Accordingly, the court abused its discretion in giving its own modified version of the pattern instruction, over his objection.

The State asserts that Curtis's argument on appeal is waived because he failed to argue before the circuit court the claim he makes now, namely, that the circuit court should have given the unmodified pattern jury instruction. Even if not waived, the State contends

that the circuit court did not err in giving the modified instruction, as the modified instruction was a correct statement of the law and supported by the evidence.

A.

Preservation

At trial, defense counsel asked the court to instruct the jury with Maryland Criminal Pattern Jury Instruction ("MPJI-Cr") 3:13, which reads:

> You may consider the testimony of a witness who [testifies] [has provided evidence] for the State as a result of [a plea agreement] [a promise that he will not be prosecuted] [a financial benefit] [a benefit] [an expectation of a benefit]. However, you should consider such testimony with caution, because the testimony may have been influenced by a desire to gain [leniency] [freedom] [a financial benefit] [a benefit] by testifying against the defendant.

MPJI-Cr 3:13. The State argued that MPJI-Cr 3:13 was not a proper instruction because there was no evidence that Bentley's testimony was the result of a promise that he would not be prosecuted. Defense counsel argued that Bentley testified that his understanding was that the charges relating to the events of 27 January 2022 would be dropped in exchange for his testimony. Initially, the trial judge agreed. Following the testimony of Officer N'Kodia, however, the trial judge revisited the issue of the "witness promised benefit" instruction. The court found that the testimony "goes both ways" as to whether Bentley received a promise from the police department that he would not be prosecuted. The court decided that it would give a modified version of MPJI-Cr 3:13 that included an explanation that there had been various versions of testimony on this issue and the jury was required to first decide whether a promise was made. Defense counsel insisted that the pattern instruction MPJI-Cr 3:13 "fairly cover[ed]" the situation and required no

modification. The State opposed the giving of MPJI-Cr 3:13, arguing that any promises that the police made to Bentley did not involve this trial. The court requested that the parties submit proposed instructions for the court's review.

The following morning, the trial court informed the parties that it intended to give its modified version of the jury instruction on "witness promised benefit." Defense counsel objected to the reference to "conflicting testimony" in the modified instruction, arguing that "normally, instructions don't really characterize evidence[.]" Over defense counsel's objection, the trial court gave the following modified instruction:

> You have heard conflicting testimony about a possible agreement between [Mr.] Bentley and the police department, regarding Mr. Bentley's testimony in this case. You must first decide whether you believe that there was an agreement between Mr. Bentley and the police department that Mr. Bentley would not be prosecuted, in exchange for Mr. Bentley testifying in this case for the State. If you believe such an agreement existed, you may still consider the testimony of Mr. Bentley, but you should consider such testimony with caution, because the testimony may have been influenced by a desire to gain leniency by testifying against the defendant.

After the court instructed the jury, defense counsel objected to the court's modified instruction:

> Yes, Your Honor. I just want to place on the record an objection to modifying the PJI 313 instruction that the Court gave, which is entitled Witness Promise of Benefit. The defendant had submitted some suggested language as an instruction that reads, you have heard testimony about an agreement between [Mr.] Bentley and the police department in this case. If you believe that there was an agreement between Mr. Bentley and the police department that Mr. Bentley would not be prosecuted, in exchange for Mr. Bentley testifying for the State in this case, you can consider such testimony with caution, because the testimony may have been influenced by a desire to gain leniency by testifying against the defendant.
>
> The defense submits that would be a more proper instruction, and the fact that the [c]ourt sort of tells the jury that there was conflicting testimony

> is inappropriate, and could in turn improperly sway the jury. So I'll just note my objection.

The trial judge responded, "Okay. Noted."

Maryland Rule 4-325(f) provides that "[n]o party may assign as error the giving or the failure to give an instruction unless the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection." The purpose of the Rule is "to afford the trial judge and opposing counsel ample opportunity to be informed of the nature and grounds of the [objection]." *Sergeant Co. v. Pickett*, 283 Md. 284, 288 (1978); *accord Taylor v. State*, 473 Md. 205, 228 (2021). Even "a cryptic objection 'substantially complies' with the last requirement of the rule – that the objection states the grounds of the objection – if 'the ground for objection is apparent from the record.'" *Taylor*, 473 Md. at 227 (quoting *Gore v. State*, 309 Md. 203, 209 (1987)). The Supreme Court of Maryland opines that "[a]lthough strict compliance (based upon the record developed at trial) is preferred, an objection that falls short of that mark may survive nonetheless if it substantially complies with Rule 4-325([f])." *Watts v. State*, 457 Md. 419, 427 (2018).

In *Watts*, the defendant argued that the circuit court erred in providing instructions on alternative forms of assault without an additional instruction on unanimity. During a bench conference after the jury instructions were given, defense counsel re-stated his earlier objections and also objected to the alternative instruction on assault, stating that there was a possibility that "six jurors could go with one theory, six could go with another, and there would not be a unanimous verdict for him." *Id*. at 424. The State argued on

appeal that Watts failed to preserve his challenge to the court's instructions because he did not request a curative unanimity instruction. *Id*. at 425.

The Supreme Court held that defense counsel's objection following the jury instruction on alternative forms of assault was preserved during the bench conference after the instruction was given. *Id*. at 428. The Court stated that "[i]f the trial judge lacked clarity about counsel's objection, the record does not reflect it. As a matter of course, the trial judge noted the exception on the record." *Id*. at 429. The Court explained further that "there is 'some play in the joints' in determining whether an issue has been preserved" and "[i]f the record reflects that the trial court understands the objection and, upon understanding the objection, rejects it, this Court will deem the issue preserved for appellate review." *Id*. at 428 (citing *Sergeant Co.*, 283 Md. at 289-90).

In this case, prior to instructing the jury, the parties and the court had two conferences on the record regarding whether the evidence showed that Bentley received a promise not to be prosecuted and whether MPJI-Cr 3:13 applied. On both occasions, Curtis made clear that he opposed the court's reference to "conflicting testimony" in the proposed modification to the instruction. After jury instructions, Curtis objected that, because the court's modified instruction "tells the jury that there was conflicting testimony[,]" it was "inappropriate, and could in turn improperly sway the jury." Curtis made the court aware of the specific grounds for his objection and provided the court with an opportunity to correct the instruction, if the court so desired, after considering his objection. Accordingly, Curtis's objection complied substantially with the requirements of Md. Rule 4-325(f) and was sufficient to preserve his challenge to the instruction.

B.

Giving the Modified Jury Instruction Was Not an Abuse of Discretion

Maryland Rule 4-325(c) governs jury instructions in criminal cases:

> The court may, and at the request of any party shall, instruct the jury as to the applicable law and the extent to which the instructions are binding. The court may give its instructions orally or, with the consent of the parties, in writing instead of orally. The court need not grant a requested instruction if the matter is fairly covered by instructions actually given.

The Rule requires that trial courts give a jury instruction requested by a party when the following three-part test is met: (1) the instruction is a correct statement of the law; (2) it must apply to the facts of the case, having been generated by the evidence; and (3) the requested instruction is not covered fairly by the given instructions. *Preston v. State*, 444 Md. 67, 81-82 (2015). A trial court's decision to provide, or refuse to provide, a requested jury instruction is a matter of discretion, unless the decision constitutes an error of law. *Id.* at 82; *accord Taylor*, 473 Md. at 230. We recognize also that "instructions are reviewed in their entirety and [r]eversal is not required where the jury instructions, taken as a whole, sufficiently protect the defendant's rights and adequately covered the theory of the defense." *Carroll v. State*, 428 Md. 679, 689 (2012) (quotation marks and citation omitted). We will not, however, "hesitate to reverse a conviction if we conclude that the defendant's rights were not adequately protected." *Id*. (quotation marks and citation omitted).

In this case, the trial judge modified a pattern jury instruction on "witness promised benefit" by adding the language:

> You have heard conflicting testimony about a possible agreement between [Mr.] Bentley and the police department, regarding Mr. Bentley's testimony in this case. You must first decide whether you believe that there was an agreement between Mr. Bentley and the police department that Mr. Bentley would not be prosecuted, in exchange for Mr. Bentley testifying in this case for the State.

Curtis argues that the trial court denied improperly his request for MPJI-Cr 3:13 because the pattern version of the instruction was critical to protecting his rights in advancing his theory of the case and addressing the testimony particularly of Officer N'Kodia. He contends that the substance of MPJI-Cr 3:13 was not covered fairly by the trial court's modified version of the instruction because it characterized improperly the evidence, neutralized the cautionary admonition of the instruction, and invaded improperly the province of the jury.

The State retorts that the trial court was not obligated to give the witness promised benefit instruction because the instruction given on credibility of witnesses covered adequately the witness promised benefit instruction.[1] The State contends that if the

[1] Immediately prior to giving the "witness promised benefit" instruction, the court instructed:

> You are the sole judges of whether a witness should be believed. In making this decision, you may apply your own common sense and life experiences. In deciding whether a witness should be believed, you should carefully consider all the testimony and evidence, as well as whether the witness's testimony was affected by other factors.
>
> You should consider such factors as the witness's behavior on the stand and manner of testifying, whether the witness appeared to be telling the truth, the witness's opportunity to see or hear things about which testimony was given, the accuracy of the witness's memory, whether the witness had a motive not to tell the truth, whether the witness had an interest in the outcome

(continued…)

instruction was required, the modified instruction was proper. Alternatively, the State maintains that any error on the part of the court in giving the modified instruction was harmless.

Jury instructions are designed '"to aid the jury in clearly understanding the case, to provide guidance for the jury's deliberations, and to help the jury arrive at a correct verdict"' and "'direct the jury's attention to the legal principles that apply to the facts of the case.'" *Dickey v. State*, 404 Md. 187, 197 (2008) (quoting *General v. State*, 367 Md. 475, 485 (2002)); *Preston*, 444 Md. at 82. In determining whether the trial court's jury instruction was proper, we recognize that the giving of the Maryland Pattern Jury Instructions is not mandatory. *Cousar v. State*, 198 Md. App. 486, 521 (2011). A "deviation from the recommended language in the pattern jury instructions does not *per se* constitute error." *Sydnor v. State*, 133 Md. App. 173, 184 (2000) (noting that trial courts should endeavor "to give the jury the most accurate recitation of the law" (quotation marks and citation omitted)). Jury instructions "must be considered as a whole and the Court will not condemn a charge because of the way in which it is expressed or because an isolated part of it does not seem to do justice to one side or the other." *Smith v. State*, 403 Md. 659, 664 (2008) (quotation marks and citation omitted).

> of the case, whether the witness's testimony was consistent, whether other evidence that you believe supported or contradicted the witness's testimony, whether and the extent to which the witness's testimony in court differed from statements made by the witness on any previous occasion, whether the witness has a bias or prejudice. You are the sole judge of whether a witness should be believed. You need not believe any witness, even if testimony's uncontradicted. You may believe all, part, or none of the testimony of any witness.

Here, the modified jury instruction was a correct statement of the law and was not covered fairly in the other instructions. Although "[t]he general instructions on the credibility of witnesses . . . ordinarily fairly cover the credibility concerns with witnesses who received a benefit[,]" in cases where "the facts suggest that a witness who received a benefit presents particular risk, the trial judge retains discretion to instruct the jury accordingly." *Preston v. State*, 218 Md. App. 60, 74 (2014) (holding that "reasonable protective housing" provided to a witness in that case did not constitute a "benefit" within the meaning of the "witness promised benefit" instruction), *aff'd*, 444 Md. 67 (2015). Bentley's testimony presented the type of "risk" that warranted a cautionary instruction, and the trial court's decision to give a "witness promised benefit instruction" was not an abuse of the trial court's wide discretion.

The trial judge's comment that there was conflicting testimony was not a matter of opinion, but a fact. Bentley's testimony on the subject was about as clear as mud. His testimony included a variety of statements that: he understood that, if he cooperated in this case, he would not be prosecuted for the events of 27 January 2022; the "deal" was that if he and Ms. Bentley "worked with them we wouldn't get charged"; Officer N'Kodia had not promised him anything related to this trial; he was still cooperating with the police; he was testifying by subpoena; he was no longer cooperating with the police because he had an open case; and he was "work[ing] off" criminal charges by helping the police and "payment was not to be charged with any crime[.]" Officer N'Kodia testified flatly that the police had not promised him "anything for testifying[.]"

We disagree with Curtis's assertion that the trial court's reference to a "possible agreement" expressed his opinion on the existence, or nonexistence, of the agreement. It is well-settled that a judge should not reveal to the jury his/her opinion. *See Dempsey v. State*, 277 Md. 134, 149 (1976) (noting that the trial judge should be "exceedingly careful in any remarks made by him during the progress of a trial" in light of his "high and authoritative position" (quotation marks and citation omitted)); *Gore*, 309 Md. at 214 (holding that the trial judge's instruction on the sufficiency of the evidence was "an indirect comment on the general weight of the evidence as to each count and outside the permissible scope of comment").

In this case, the trial court instructed the jury to decide, in the first instance, whether an agreement existed. If the jury believed an agreement existed, the court instructed the jury to consider Bentley's testimony with caution. Rather than express an opinion on the evidence, the trial judge's comments reinforced the role of the jury in deciding whether Bentley testified pursuant to an agreement, and warned the jury to place that evidence in its proper context when considering the weight given to the evidence. *See General*, 367 Md. at 485 ("Jury instructions direct the jury's attention to the legal principles that apply to the facts of the case."); *Thompson v. State*, 393 Md. 291, 307 (2006) (concluding that the flight instruction in that case "does not impermissibly emphasize the importance of evidence . . . rather, it attempts to insure that the jury does not imbue [the consciousness of guilt] evidence . . . with more weight than it deserves"). Here, the trial court did not abuse its discretion in adding language to the pattern instruction to highlight the importance of the jury's determination of the facts in evidence.

C.

Any Abuse of Discretion Was Harmless

Even if the trial court abused its discretion in failing to give verbatim the pattern jury instruction for "witness promised benefit," any error was harmless beyond a reasonable doubt. *See Dorsey v. State*, 276 Md. 638, 659 (1976) (An error is harmless if the reviewing court "is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict[.]"); *see also Hall v. State*, 437 Md. 534, 540 (2014) (holding that anti-CSI effect instruction was harmless error when it was "of no significance to the verdict").

In *Rainey v. State*, 480 Md. 230, 247 (2022), the Supreme Court of Maryland considered the effect of a similar statement in the context of a destruction-of-evidence jury instruction that stated: "You have heard [evidence] that the Defendant destroyed or concealed evidence[.] . . . You must first decide whether the Defendant destroyed or concealed evidence[.] . . . If you find that the Defendant destroyed or concealed evidence . . . then you must decide whether that conduct shows a consciousness of guilt." Rainey argued that the trial court's instruction prejudiced the jury by effectively suggesting that he had, in fact, destroyed evidence. *Id*. at 271.

The Court determined that any error in the trial court's statement was harmless, in light of the court's specific instructions to the jury that it was for them to decide whether Rainey destroyed evidence and the significance, if any, of Rainey's actions. *Id*. at 271-72. The Court emphasized the importance of assessing the alleged error in a jury instruction in the context with the entire jury instruction. *Id*. at 272 (citing *Nora Cloney & Co. v. Pistorio*,

251 Md. 511, 515 (1968)). *See also Nora Cloney*, 251 Md. at 515 ("This Court will not condemn a charge because of the way in which it is expressed or because an isolated part of it does not seem to do justice to one side or the other."); *Dorsey Bros., Inc. v. Anderson*, 264 Md. 446, 451-53 (1972) (declining to find one circuit court comment out of context of the entire jury instruction). The Court explained that "[a]n instruction to the jury carries the binding authority of the circuit court, but also works to prevent the jury from drawing erroneous inferences and conclusions." *Rainey*, 480 Md. at 272.

The trial court's modified version of the "witness promised benefit" instruction highlighted the importance of the caution the jury should bear in mind in assessing Bentley's testimony. In light of the entire jury instructions given in this case, any error on the part of the court in adding language to the pattern jury instruction for "witness promised benefit" in no way influenced the verdict and was harmless beyond a reasonable doubt.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.