

Circuit Court for Prince George's County
Case No. CT180679B

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1981

September Term, 2019

DEMETRI JEROME STOUTAMIRE

v.

STATE OF MARYLAND

Nazarian,
Shaw Geter,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 13, 2020

*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 a jury trial in the Circuit Court for Prince George’s County, Demetri Jerome Stoutamire, appellant, was convicted of conspiracy to commit armed robbery. He raises two issues on appeal: (1) whether the trial court erred in refusing to ask voir dire questions aimed at identifying prospective jurors who were unable or unwilling to apply the principles of law regarding the presumption of innocence, the State’s burden of proof, and the defendant’s right not to testify, and (2) whether the trial court erred in admitting evidence of a gun that was found in his apartment because the State failed to demonstrate that there was a “reasonable probability” that it was the gun used in the robbery. For the reasons that follow, we shall reverse Mr. Stoutamire’s conviction and remand the case for a new trial.

Prior to trial, defense counsel for Mr. Stoutamire filed proposed voir dire questions.

Proposed questions 9B through 9H read as follows:

- B. Does any juror have difficulty with the principle of law that a defendant is presumed innocent and remains so unless proven guilty beyond a reasonable doubt and to a moral certainty?
- C. Does any juror reject, or have any trouble understanding the rule of law that requires you, as jurors, to presume the defendant to be innocent unless and until the prosecution proves him guilty by competent evidence beyond a reasonable doubt and to a moral certainty?
- D. Does any juror feel that a person must be, or is likely to be guilty of a crime merely because the prosecution has charged him with committing a crime?
- E. Does any juror reject or have any difficulty with the rule of law requiring that the burden of proof in a criminal case is always upon the prosecution to prove the defendant’s guilt beyond a reasonable doubt and that the defendant is not required to call any witnesses or produce any evidence whatsoever?

F. If the prosecution fails in its burden of proving each element of an offense beyond a reasonable doubt, is there any juror who would not find the defendant not guilty of that offense?

G. Is there any juror who feels that a defendant should have to prove anything?

H. Is there any juror who feels that a defendant must testify in his own behalf in order to be found not guilty?

In our legal system, a criminal defendant is presumed innocent unless the State proves beyond a reasonable doubt that he or she is guilty. Does any prospective juror have any objection or reservation about these principles or believe that the fact that a person has been charged is evidence that a person is guilty?

During voir dire, defense counsel twice requested the court to ask prospective jurors these questions and the court refused to do so. Defense counsel objected at the time the court declined to ask the questions, and again when the court asked the parties if the seated jury was acceptable.

On appeal, Mr. Stoutamire contends, and the State concedes, that the court erred in refusing to propound his requested voir dire questions. We agree. In *Kazadi v. State*, 467 Md. 1 (2020), the Court of Appeals held that, “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 fundamental principles of presumption of innocence, the State’s burden of proof, and the defendant’s right not to testify.” *Id.* at 35-36. That holding applied not only to Mr. Kazadi, but also to “any other cases that [were] pending on direct appeal when [the] opinion [was] filed, where the relevant question [was] preserved for appellate review.” *Id.* at 47. This case was pending on appeal when *Kazadi* was decided. Therefore, *Kazadi* is controlling. Although the trial court was not required to ask all of Mr.

Stoutamire’s proposed questions or to “use any particular language,” it was required to ask questions that “concisely describe the fundamental right[s] at stake and to inquire as to a prospective juror’s willingness and ability to follow the court’s instructions as to th[ose] rights.” *Id.* Because the court did not ask such questions when requested to do so, and defense counsel preserved the issue, reversal is required.¹

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
REVERSED. CASE REMANDED FOR A
NEW TRIAL. COSTS TO BE PAID BY
PRINCE GEORGE’S COUNTY.**

¹ Because we reverse the judgment based on Mr. Stoutamire’s first claim we decline to address his second claim on appeal. *See Pearson v. State*, 437 Md. 359, 364 n.5 (2014) (noting that “where an appellate court reverses a trial court’s judgment on one ground, the appellate court does not address other grounds on which the trial court’s judgment could be reversed, as such grounds are moot.”).