

Circuit Court for Baltimore City  
Case Nos. 116091026-27

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2018

September Term, 2019

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FRED WHITING

v.

STATE OF MARYLAND

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Graeff,  
Ripken,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: May 6, 2021

\*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.

Convicted by a jury in the Circuit Court for Baltimore City of first degree murder of Michael Smith, attempted second degree murder of Shawan Jackson, and related offenses, Fred Whiting, appellant, presents for our review two questions: whether the evidence is sufficient to sustain the convictions, and whether the court abused its discretion in giving the jury, during deliberations, a video recording of Ms. Jackson's testimony. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, Ms. Jackson testified that on the evening of May 19, 2015, she and Mr. Smith were standing outside a bar when a "person . . . came out the alley across the street and . . . started shooting" toward them. As Ms. Jackson "ran . . . back toward[] the side door" of the bar, she saw Mr. Smith "get shot," and was struck in her leg and back. Ms. Jackson identified Mr. Whiting as the shooter. The State also called an expert who testified that Mr. Smith's death was caused by gunshot wounds to his head, chest, shoulder, leg, and hand.

Mr. Whiting first contends that for numerous reasons, the evidence is insufficient to establish that he is the person who shot Mr. Smith and Ms. Jackson. But, "it is well established in Maryland that the testimony of even a single eyewitness, if believed, is sufficient evidence to support a conviction." *Marlin v. State*, 192 Md. App. 134, 153 (2010) (citations omitted). Here, Ms. Jackson testified that Mr. Whiting shot her and Mr. Smith. This testimony, if believed, could convince a rational trier of fact beyond a reasonable doubt that Mr. Whiting was the person who committed the offenses, and hence, the evidence is sufficient to sustain the convictions.

Mr. Whiting next contends that the court abused its discretion in giving the jury, during deliberations, a video recording of Ms. Jackson’s testimony. During deliberations, the jury requested “a written audio or video copy of Ms. Jackson’s testimony.” The court noted that defense counsel had an objection, and asked defense counsel “what [her] objection is.” Defense counsel stated: “I believe that they should rely on . . . their notes another [sic] and their memory of what transpired.” The court stated that “it is not unusual that copies of testimony are replayed for jurors when requested,” noted defense counsel’s objection, and concluded that “this is a fair inquiry.”

Mr. Whiting now contends that “[i]n exercising its discretion, the court failed to consider that giving the jury the testimony of only one witness would unduly emphasize the testimony of one witness out of many.” But, the Court of Appeals has stated that “where specific grounds are delineated for an objection, the one objecting will be held to those grounds and will ordinarily be deemed to have waived grounds not specified.” *Jackson v. State*, 288 Md. 191, 196 (1980) (citations omitted). Here, defense counsel, in making her objection, did not specifically argue that giving the jury the testimony of Ms. Jackson would unduly emphasize her testimony. Hence, that ground is waived, and we will not review Mr. Whiting’s contention on the merits.

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