

Circuit Court for Montgomery County  
Criminal Case No. 132005

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2051

September Term, 2017

---

MAHMOUD KOUMAIHA

v.

STATE OF MARYLAND

---

Woodward, C.J.,  
Graeff,  
Moylan, Charles, E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: November 21, 2018

\*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 Montgomery County, Mahmoud Koumaiha, appellant, was convicted of second-degree assault and violating a protective order. His sole claim on appeal is that the trial court erred in failing to strike non-responsive testimony. For the reasons that follow, we affirm.

Viewed in a light most favorable to the State, the evidence at trial demonstrated that Koumaiha's wife, Samah Maatouk, had obtained a final protective order that prohibited Koumaiha from entering her residence and the yard, grounds, and outbuildings surrounding her residence. On February 25, 2017, Maatouk saw someone moving outside her apartment window, became scared, and called her friend Adnan to come pick her up. Because Adnan was sick, he sent his son, Mohamed Obaidy, to Maatouk's apartment. When Maatouk exited her apartment to walk to Obaidy's car, she heard footsteps coming from the floor above her and saw Koumaiha, who looked furious, running toward her. Maathouk immediately ran back into her apartment and locked the door.

Koumaiha then ran in front on Obaidy's car, accused him of sleeping with Maatouk, threatened to kill him, opened his car door, pulled him into the parking lot, punched him, spit on him, and cut him with a small knife. Obaidy got away from Koumaiha, re-entered his car, and called the police. However, Koumaiha got in front of Obaidy's car again and then charged at him, causing Obaidy to get out of the car a second time. Koumaiha proceeded to chase Obaidy around the parking, but Obaidy was eventually able to get back into his car and drive to a nearby location where he met up with the police. Koumaiha was later apprehended by police about twenty yards from Maatouk's apartment complex.

Obaidy and Maatouk acknowledged that they were “very close” friends and that Maatouk had worked at Obaidy’s day care for several years. Maatouk also testified that Obaidy and his family had supported her financially. During cross-examination, defense counsel attempted to establish that Obaidy was biased toward Maatouk because the two of them may have been involved in an intimate relationship, despite the fact that Obaidy was married. The following exchange then occurred:

[DEFENSE COUNSEL]: And your families are close, right?

OBAIDY: Our families are very —

[DEFENSE COUNSEL]: Or your family’s close with her I should say, right?

OBAIDY: They’re very close with her, yes.

[DEFENSE COUNSEL]: Right. And you or your father have provided money to Ms. Maatouk, right?

OBAIDY: Not just money, all kind of support.

[DEFENSE COUNSEL]: All kinds of stuff, right, clothing?

OBAIDY: No.

[DEFENSE COUNSEL]: — perfume?

OBAIDY: No, moral support, emotional support, we

[DEFENSE COUNSEL]: I’m talking about financial things, right?

OBAIDY: Well, you said all kinds of support. We supported her when he was beating her up, I mean with all that stuff.

[DEFENSE COUNSEL]: Objection, Your Honor. Move to strike. Non-responsive.

THE COURT: Just get to the point. You’re going to ask him questions, just ask him a question.

[DEFENSE COUNSEL]: Sure.

Thereafter, defense counsel continued to question Obaidy about his relationship with Maatouk.

On appeal, Koumaiha contends that Obaidy’s testimony that Koumaiha had been “beating [Maatouk] up” was non-responsive and, therefore, that the trial court erred in failing to strike that testimony. However, the court did not rule on counsel’s motion to strike and instead told counsel to “just ask [Obaidy] a question.” Thereafter, counsel did not request the court to make a ruling on his motion and continued questioning Obaidy. Consequently, Koumaiha’s claim is not preserved for appellate review. *See generally Abell v. Albert F. Goetze, Inc.*, 245 Md. 433, 440 (1967) (Evidence admissibility issue not reviewable where “there was no objection offered to the rephrased question, nor was any request for a ruling made by appellant’s counsel on the objection to the original question.”); 1 Wigmore § 19, at 854 (rev.1983) (“[A] party who mistakenly and unreasonably believes that his objection has been overruled when no ruling has in fact been made cannot complain on appeal if by reason of his mistake he allows his opponent’s evidence to be given at trial without any ruling by the trial court as to its admissibility.”). Moreover, even if we were to construe the court’s response as an implicit denial of the motion to strike, the issue would still be waived as counsel acquiesced to that ruling by stating “sure” and proceeding to question the witness. *Banks v. State*, 213 Md. App. 195, 203 (2013) (holding that where an appellant responded “okay” in response to a court’s ruling he acquiesced to that ruling and waived his objection on appeal).

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