

Circuit Court for Baltimore City
Case No. 117145026

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2211

September Term, 2017

TREYVON BROWN

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: September 30, 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 bench trial, in the Circuit Court for Baltimore City, Treyvon Brown, appellant, was convicted of possession of a regulated firearm by a disqualified person; possession of a firearm during the commission of a drug trafficking crime; wearing, carrying, or transporting a handgun on his person; wearing, carrying, or transporting a handgun in a vehicle; possession of marijuana with intent to distribute; and possession of ammunition by a prohibited person. On appeal, he claims that the trial court’s failure to determine that he had knowingly and voluntarily waived his right to a jury trial violated his right to a jury trial under the United States and Maryland Constitutions and Maryland Rule 4-246. For the reasons that follow, we shall reverse and remand for a new trial.

When Mr. Brown’s case was called on November 20, 2017, defense counsel informed the court: “I think we’re probably going to do a court trial.” Defense counsel then indicated that he had filed a motion to suppress. After the court heard and denied the suppression motion, the parties addressed several other matters and took a break for lunch. Thereafter, the parties returned to the courtroom and Mr. Brown’s bench trial commenced. There was no further discussion of Mr. Brown’s jury trial waiver by either the court or the parties. Moreover, we cannot discern from the record that such a waiver occurred at any other point in the proceedings.

The waiver of the right to a jury trial must be “knowledgeable and voluntary,” that is, that there has been an intentional relinquishment or abandonment of a known right or privilege. *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938). It is now long-established that a court need not advise the accused of the details of a jury trial or of the jury selection process, but it must “satisfy itself that the waiver is not a product of duress or coercion and

further that the *defendant has some knowledge* of the jury trial right before being allowed to waive it.” *State v. Bell*, 351 Md. 709, 725 (1998) (quotation marks and citations omitted) (emphasis in original). Thus, although courts need not engage in any “specific litany,” for a jury trial waiver to pass constitutional muster, the record must show that the defendant has some information regarding the nature of a jury trial. *Abeokuto v. State*, 391 Md. 289, 320 (2006) (quotation marks and citation omitted). “Whether there is an intelligent, competent waiver must depend on the unique facts and circumstances of each case.” *Valiton v. State*, 119 Md. App. 139, 148, *cert. denied*, 349 Md. 495 (1998) (quotation marks and citation omitted). “If the record in a given case does not disclose a knowledgeable and voluntary waiver of a jury trial, a new trial is required.” *Smith v. State*, 375 Md. 365, 381 (2003) (citations omitted).

Mr. Brown contends, and the State agrees, that there is no evidence in the record indicating that he knowingly and voluntarily relinquished his right to a jury trial. We agree. This is not a case where the trial court failed to comply with the exacting requirements of Maryland Rule 4-246. Rather, according to the record before us, the court did not question Mr. Brown regarding his understanding of his jury trial rights at all. Moreover, defense counsel did not advise the court that he had previously advised Mr. Brown of his rights or that Mr. Brown had waived his rights in another proceeding. In fact, it was defense counsel,

not Mr. Brown, that requested the bench trial. Consequently, a new trial is required. *See Smith*, 375 Md. At 381.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED AND
CASE REMANDED TO THAT COURT
FOR A NEW TRIAL. COSTS TO BE PAID
BY THE MAYOR AND CITY COUNCIL OF
BALTIMORE.**