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SUPREME COURT OF MARYLAND

John Orlando Satterfield v. State of Maryland, Misc. No. 10, September Term 2022, filed April 24, 2023. Opinion by Hotten, J.

<https://mdcourts.gov/data/opinions/coa/2023/10a22m.pdf>

MD. CODE ANN., CRIMINAL PROCEDURE ARTICLE § 8-201 – POST-CONVICTION DNA TESTING – EXCULPATORY EVIDENCE

MARYLAND RULES 4-701 ET SEQ. – POST-CONVICTION DNA TESTING – PROCEDURAL REQUIREMENTS UNDER MD. CODE ANN., CRIMINAL PROCEDURE ARTICLE § 8-201

Facts:

Petitioner, John Orlando Satterfield (“Petitioner”), was convicted of fourteen criminal offenses, including first-degree murder, stemming from the murder of an individual in their home. An informant for the Baltimore City Police Department, who witnessed the crimes, disclosed information with the authorities. Those authorities subsequently interviewed another witness to the crime, who testified during trial that Petitioner was involved with the shooting on the night in question. Petitioner was subsequently sentenced to life imprisonment plus 150 years.

Fourteen years after his conviction and sentence, Petitioner filed a Petition for Post-Conviction DNA Testing (the “Petition”) pursuant to Md. Code Ann., Criminal Procedure (“Crim. Proc.”) § 8-201(b)(1), asserting that there was a reasonable probability that DNA testing of a cigarette butt recovered from the alley behind the victim’s home “has the scientific potential to produce exculpatory or mitigating evidence[.]” under Crim. Proc. § 8-201(d)(1)(i). Specifically, Petitioner believed that the DNA testing of the cigarette butt could “implicate and/or provide impeachment evidence” against the two witnesses before the jury. The State filed an answer to the Petition. The Circuit Court for Baltimore County denied the Petition without a hearing or an explanation. Petitioner filed a motion for reconsideration, which was denied. Petitioner timely appealed the denial of his Petition, which was transferred directly to this Court. Petitioner also argued that he should have been afforded a hearing and the opportunity to respond to the State’s answer.

Held: Affirmed.

The Court held that the circuit court properly denied the Petition because, as a matter of law, the facts alleged did not afford Petitioner relief. Under Crim. Proc. § 8-201(d)(1)(i), “a ‘reasonable probability’ requires *more than mere possibility*, rather, it is a *fair likelihood that something is true*.” *Givens v. State*, 459 Md. 694, 707, 188 A.3d 903, 910 (2018) (emphasis added) (citing *Beaman v. State*, 453 Md. 407, 420, 162 A.3d 864, 872 (2017)). As such, Petitioner was required to demonstrate that there is a reasonable probability that the testing of the cigarette butt “has the scientific potential” to produce exculpatory or mitigating evidence “that would tend to show that he did not commit the crime[.]” *Id.* at 708, 188 A.3d at 910–11 (internal citations omitted). The Court concluded that Petitioner failed to establish that DNA testing of the cigarette butt was warranted. Assuming, arguendo, the DNA testing of the cigarette butt matched either witness, it would not have tended to “disprove or negate” *Petitioner’s* guilt. *Edwards v. State*, 453 Md. 174, 200, 160 A.3d 642, 657 (2017). The jury and the court were aware of Petitioner’s involvement in the crimes and that, on the night in question, both witnesses smoked and walked through the alley. Finding either of their DNA on the cigarette butt was “not exculpatory or inculpatory.” *Givens*, 459 Md. at 715, 188 A.3d at 915. Accordingly, Petitioner was not entitled to testing under Crim. Proc. § 8-201(d)(1)(i).

The Court also held that the circuit court: (1) was not required to hold a hearing prior to denying the Petition under Maryland Rule 4-709(b)(1)(B); (2) was not required to consider Petitioner’s reply to the State’s answer nor was Petitioner entitled to submit a reply under Maryland Rule 4-707(a); (3) failed to comply with Maryland Rule 4-709(e); however, remand would be futile.

“Maryland Rules 4-701 *et seq.* govern post-conviction DNA testing procedures.” *Edwards*, 453 Md. at 189 n.12, 160 A.3d at 651 n.12; Md. Rule 4-701. Pursuant to Maryland Rule 4-709(b)(1)(B), “[t]he court shall deny the petition without a hearing if it finds that[,] . . . as a matter of law, the facts alleged in the petition pursuant to . . . [Md.] Rule 4-704 do not entitle the petitioner to relief under [Crim. Proc.] § 8-201.” As previously established, Petitioner’s “assertions in this case [did] not come close to satisfying the standard under [Crim. Proc.] § 8-201 for ordering DNA testing.” *Beaman*, 453 Md. at 422, 162 A.3d at 873. Accordingly, the circuit court was not required to hold a hearing prior to denying the Petition. Md. Rule 4-709(b)(1)(B).

The plain language and history of Maryland Rules 4-707(a) and 4-708 indicated that that the rules allow Petitioner the opportunity to respond to the State’s answer for the purposes enumerated under Maryland Rule 4-708; however, the court was not required to wait until Petitioner files a response, or until the expiration of Petitioner’s response time, prior to denying the Petition where the grounds outlined in Rule 4-707(a) were satisfied. Rather, the court needed to only consider the State’s answer under Maryland Rule 4-707(a). *Fuster v. State*, 437 Md. 653, 668, 89 A.3d 1114, 1122 (2014). Therefore, the Court held that the circuit court was not required to consider Petitioner’s reply nor was Petitioner entitled to submit one.

Under Maryland Rule 4-709(e), if a court “declines to hold a hearing, it *shall* enter a written order *I’*.” (Emphasis added). Although the circuit court failed to comply with Maryland Rule 4-709(e), remand was futile. *See Jackson v. State*, 448 Md. 387, 411, 139 A.3d 976, 990 (2016) (“[W]e choose not to remand for inclusion of further findings [] because of the obvious futility of

[Petitioner's] assertions.”). The Court, therefore, found “no reason to remand this case for further proceedings” and affirmed the circuit court’s denial of the Petition. *Beaman*, 453 Md. at 422, 162 A.3d at 873.

APPELLATE COURT OF MARYLAND

Todd Arthur Robson v. State of Maryland, No. 764, September Term 2022, filed March 8, 2023. Opinion by Moylan, J.

Albright, J., concurs.

<https://www.mdcourts.gov/data/opinions/cosa/2023/0764s22.pdf>

CRIMINAL LAW – SENTENCING CONSIDERATIONS – JUDICIAL DISCRETION

CRIMINAL LAW – VOIR DIRE – IMPERMISSIBLE COMPOUND QUESTIONS

CRIMINAL LAW – JURY DELIBERATIONS – EVIDENCE IN JURY ROOM

Facts:

The appellant, Todd Arthur Robson, was convicted of Reckless Endangerment by a jury in the Circuit Court for Howard County. The jury acquitted Mr. Robson, however, of the charge of First-Degree Assault and was hung on the charge of Second-Degree Assault. The Honorable Judge Quincy Coleman, who presided over the trial, sentenced Mr. Robson to five years imprisonment with all but two years suspended followed by alcohol treatment and three years probation after his release. Mr. Robson appealed on three grounds: (1) that the judge erroneously relied on testimony that had not been believed by the jury, (2) that the judge erroneously asked impermissible compound voir dire questions, and (3) that the judge erroneously refused to allow an unloaded shotgun, which had been entered into evidence, into the jury room during deliberations.

Held: Affirmed.

The Appellate Court of Maryland affirmed the conviction of Todd Arthur Robson for Reckless Endangerment. The Court rejected the appellant’s argument that Judge Coleman was not permitted to rely on a sheriff’s deputy’s testimony that Mr. Robson had pointed a shotgun at his head. The appellant argued that the testimony of the sheriff’s deputy was not believed by the jury because they failed to convict him on both First and Second-Degree Assault. The Court held that a surmised factual finding or non-finding by the jury need not be relied upon by the sentencing judge who has wide latitude in what to take into consideration when fashioning a sentence.

The Court next rejected appellant's second contention that Judge Coleman erroneously asked impermissible compound questions during the voir dire examination. Although the Court agreed with appellant that compound questions posed to the jury were indeed erroneous, it determined that the error was not properly preserved for appeal because defense counsel never objected to the questions at trial. The Court declined to exercise plain error review and discussed the "invited error" doctrine.

Finally, the Court rejected appellant's contention that Judge Coleman's refusal to allow an unloaded shotgun, which had been entered into evidence, into the room during jury deliberations for safety considerations was reversible error. The Court ruled that Judge Coleman properly exercised his discretion in prohibiting the jury from taking the shotgun into the jury room during deliberations under Maryland Rule 4-326(b) which provides, inter alia, that properly admitted evidence may be taken into the jury room "[u]nless the court for good cause orders otherwise." The Court noted that juror safety is of the utmost importance and, as noted by Judge Coleman, the jury had ample opportunity to view the shotgun during trial.

Andy E. Reyes v. State of Maryland, No. 1426, September Term 2021, filed March 29, 2023. Opinion by Albright, J.

<https://www.courts.state.md.us/data/opinions/cosa/2023/1426s21.pdf>

CRIMINAL PROCEDURE – IDENTIFICATIONS GENERALLY

CRIMINAL PROCEDURE – CONFIRMATORY IDENTIFICATIONS – CONSTITUTIONAL ANALYSIS

CRIMINAL PROCEDURE – CONFIRMATORY IDENTIFICATIONS – SUFFICIENT FAMILIARITY

Facts:

Under constitutional due process principles, if a defendant seeks to suppress his or her identification by a witness, courts typically must engage in a two-part analysis: whether the identification was procured by a state actor through an impermissibly suggestive procedure; and if so, whether the identification should nevertheless not be suppressed because it is “reliable”—*i.e.*, it does not present a very substantial likelihood of irreparable misidentification.

After he was shot, the victim told police that he recognized the perpetrator and provided information about the perpetrator. The victim and perpetrator had known each other for approximately six months before the crime and had interacted with each other in a variety of settings. The victim also knew the perpetrator’s first name. Police used information provided by the victim to obtain a photograph of the defendant and showed the photograph to the victim, without any other photographs as part of a larger array. The victim confirmed that the photograph depicted the perpetrator.

After a suppression hearing, the Circuit Court concluded that the identification of the defendant was reliable and should not be suppressed, and the case proceeded to trial. The defendant then timely appealed to the Appellate Court.

Held: Affirmed

The Appellate Court distinguished between a confirmatory identification, in which a witness knows the perpetrator from before the crime, and a selective identification, in which the witness does not. It concluded that the identification of the defendant was confirmatory because the victim told police that he recognized the defendant from before the crime. Thus, showing the victim a photograph of the defendant was a confirmatory process in which police sought to ensure that they were investigating the correct individual whom the victim had already identified.

The Court further reasoned that confirmatory identifications do not necessarily implicate the same due process concerns as selective identifications. Because a confirmatory identification witness knows a perpetrator from before the crime, the witness's memory is not easily distorted by any police suggestion. Thus, so long as the witness is sufficiently familiar with the perpetrator from before the crime, a confirmatory identification will be constitutionally reliable, even in the presence of impermissible suggestion by police. The Court concluded that the confirmatory identification of the defendant was supported by sufficient familiarity because, among other things, the victim had known the defendant for six months, knew his first name, and had interacted with him in a variety of settings. As such, the identification was reliable because there was little risk that any impermissible police suggestion could have led the victim to misidentify the defendant.

The Court also addressed two evidentiary issues. First, the Court concluded that the Circuit Court did not abuse its discretion in admitting video footage and photographic stills from an automatic camera that captured the shooting, reasoning that there was sufficient testimony about the processes by which that camera operated and its reliability to authenticate the evidence. Second, the Court concluded that the Circuit Court did not abuse its discretion in limiting cross examination into the victim's history of domestic violence toward a third party because, among other things, there was no evidence that the defendant sought to protect the third party, who was not present at the shooting, from immediate danger.

ATTORNEY DISCIPLINE

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By an Order of the Supreme Court of Maryland dated April 21, 2023, the following attorney has been suspended for sixty days:

RACHAEL-ANNE HAMMER

*

By an Order of the Supreme Court of Maryland dated April 21, 2023, the following attorney has been temporarily suspended:

JUSTIN MICHAEL WINTER

*

RULES ORDERS AND REPORTS

*

A Rules Order pertaining to the 214th Report of the Standing Committee on Rules of Practice and Procedure was filed on April 21, 2023.

<http://mdcourts.gov/sites/default/files/rules/order/ro214.pdf>

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A Rules Order pertaining to the 215th Report of the Standing Committee on Rules of Practice and Procedure was filed on April 21, 2023.

<http://mdcourts.gov/sites/default/files/rules/order/ro215.pdf>

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UNREPORTED OPINIONS

The full text of Appellate Court unreported opinions can be found online:

<https://mdcourts.gov/appellate/unreportedopinions>

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