

Circuit Court for Montgomery County  
Case No. 129435-C

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1787

September Term, 2016

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PRINCE EMMANUEL BENJAMIN

v.

STATE OF MARYLAND

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

JJ.

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PER CURIAM

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Filed: September 13, 2017

\*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.

Prince Emmanuel Benjamin, appellant, was convicted, by a jury sitting in the Circuit Court for Montgomery County, of conspiracy to distribute cocaine, possession with intent to distribute cocaine, and possession with intent to distribute marijuana. On appeal, Benjamin seeks a reversal of those convictions on the ground that the trial judge improperly restricted his cross-examination of a witness for the State. We conclude that Benjamin's claim was not preserved for appellate review, but, in any event, lacks merit, and shall affirm.

Benjamin was the driver of a vehicle that was stopped by police, after police surveillance supplied probable cause to believe that the occupants of the vehicle were engaged in narcotics transactions. John Land was seated in the front passenger seat of the vehicle. Officer Kevin Moris of the Montgomery County Police Department was called as a witness in the State's case, and testified on direct examination that cocaine and marijuana were recovered pursuant to a search of the vehicle. On cross-examination, defense counsel asked the officer about a statement allegedly made by Land, regarding ownership of the vehicle. The prosecutor objected and the court sustained the objection:

[DEFENSE COUNSEL]: All right. When the vehicle was stopped, you said that Mr. Benjamin was driving?

OFFICER MORIS: Correct.

[DEFENSE COUNSEL]: But Mr. Land is the one who said, well, it's his girlfriend's car but it is really his car?

OFFICER MORIS: Correct.

[PROSECUTOR]: Objection.

THE COURT: Sustained. The jury is instructed to disregard the last question and answer.

Benjamin claims that the court’s ruling “unduly preclude[ed]” his Sixth Amendment right of confrontation. He asserts that testimony from the officer that Land stated that the vehicle belonged to someone other than Benjamin “tend[ed] to indicate [Benjamin’s] lack of knowledge” that there were illegal drugs in the vehicle, and “would have gone a long way to support [his] defense that he knew nothing of Land’s illicit business transactions.”

Because defense counsel made no proffer as to why the evidence was admissible, however, the issue was not preserved for appellate review. As the Court of Appeals has recently stated, “a party who objects to the admission or exclusion of evidence at trial must make the grounds for a different ruling manifest to the trial court at a time when the court can consider those grounds and decide whether to make a different ruling.” *Peterson v. State*, 444 Md. 105, 124-25 (2015). *See also* Md. Rule 5-103(a)(2) (“Error may not be predicated upon a ruling that . . . excludes evidence unless the party is prejudiced by the ruling, and . . . the substance of the evidence was made known to the court by offer on the record or was apparent from the context within which the evidence was offered.”)

In any event, Benjamin’s claim that the trial court’s ruling “unduly preclud[ed]” his right of confrontation lacks merit. “A criminal defendant’s right to cross-examine the prosecution’s witnesses is protected by the Confrontation Clause that appears in both the federal and State constitutions.” *Peterson*, 444 Md. at 122. “To comply with the Confrontation Clause, a trial court must allow a defendant a ‘threshold level of inquiry’ that ‘expose[s] to the jury the facts from which jurors, as the sole triers of fact and

credibility, could appropriately draw inferences relating to the reliability of the witnesses.”

*Id.* (citations omitted) (emphasis added). In reviewing a claim that a trial court has violated a defendant’s right of confrontation, we consider whether the disputed ruling “denied the appellant the opportunity to reach the ‘threshold level of inquiry’ required by the Confrontation Clause.” *Id.* at 124.

The court’s ruling did not preclude Benjamin from inquiring into the officer’s reliability. Defense counsel’s question was aimed at eliciting evidence to support the defense theory of the case, and had nothing to do with the reliability of the officer’s testimony.

Moreover, we note that “a criminal defendant’s right to cross-examination is not boundless.” *Parker v. State*, 185 Md. App. 399, 426 (2009) (citation omitted). “Once the constitutional threshold is met, trial courts may limit the scope of cross-examination ‘when necessary for witness safety or to prevent harassment, prejudice, confusion of the issues, and inquiry that is repetitive or only marginally relevant.’” *Peterson*, 444 Md. at 122-23. “The trial court may also restrict cross-examination based on its understanding of the legal rules that may limit particular questions or areas of inquiry.” *Id.* at 124. “Generally speaking, the scope of examination of witnesses at trial is a matter left largely to the discretion of the trial judge and no error will be recognized unless there is clear abuse of such discretion.” *Parker*, 185 Md. App. at 427 (citation omitted). Here, although the

prosecutor did not give specific grounds for the objection, the question clearly called for hearsay, which the trial court appropriately excluded.<sup>1</sup>

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

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<sup>1</sup> Hearsay is defined as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Md. Rule 5-801. Hearsay “*must* be excluded as evidence at trial, unless it falls within an exception to the hearsay rule excluding such evidence or is ‘permitted by applicable constitutional provisions or statutes.’” *Bernadyn v. State*, 390 Md. 1, 8 (2005) (emphasis in original) (quoting Md. Rule 5-802.) “[A] circuit court has no discretion to admit hearsay in the absence of a provision providing for its admissibility.” *Id.*