Circuit Court for Wicomico County
Case No. C-22-CR-22-000161

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 45

September Term, 2023

EVRON TERRELL STRAND

v.

STATE OF MARYLAND

Arthur,
Leahy,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: September 5, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to MD. R. 1-104(a)(2)(B).

A jury in the Circuit Court for Wicomico County convicted appellant, Evron Terrell Strand, of attempted second-degree murder, first-degree assault, second-degree assault, and use of a firearm in the commission of a crime of violence. The trial court sentenced Strand to a total of 50 years in prison, the first five without the possibility of parole. On appeal, Strand argues that the trial court erred in (1) admitting gun evidence he asserts was not connected to the charged offense, (2) admitting into evidence a bullet that was found in a Jeep Renegade approximately two months after the shooting, and (3) refusing to instruct the jury on imperfect self defense. For the reasons that follow, we find no error by the trial court and affirm Strand's convictions.

FACTS AND LEGAL PROCEEDINGS

At approximately 9:00 p.m. on December 8, 2021, Maryland State Police responded to apartment 509 at 1302 Jersey Road, Salisbury, Wicomico County, after receiving multiple 911 calls about a shooting. Upon arrival, police discovered a man, later identified as Bryan Williams, bleeding profusely from his face, and a woman, later identified as Kamri Harris, screaming for help from an upstairs window. Williams told the police that he had been shot but did not provide any details. No one else in the apartment showed any signs of having been wounded, and no guns were located in the apartment. Williams was transported to the hospital where a bullet was recovered from his chest and a bullet fragment was recovered from his right arm.

At trial, Kamri Harris testified that on the evening of December 8, 2021, she and Williams were at their friend Myiesha Connor's apartment after Connor had taken Harris to a doctor's appointment earlier that day. Harris was playing a video game in the kitchen

when she heard a knock on the front door. She heard people talking and looked in that direction and saw Williams being shot in the living room. From the kitchen, Harris was able to see the gun and the shooter's hand but not his face. She heard the shooter say he was going to kill Williams.

Williams came into the kitchen with the shooter following him. The shooter pointed the gun—which she described as a little revolver—at Harris. Williams, who had been headed out the back door of the apartment, returned to put himself between the shooter and Harris. As he did so, he was shot again. After that, Harris said, it got quiet, and she and Williams went to an upstairs bedroom, where she called 911. The shooter apparently followed them upstairs because Harris heard him banging on the door. By the time the police arrived, Harris believed the shooter had left the house, and she and Williams yelled to the police from the bedroom window.

The next day, Harris, "[a] hundred percent sure," identified Strand, whom she had seen in Virginia on a few occasions, as the shooter from a photo array. Later, she also identified Strand in-court as the shooter.

Williams was a reluctant witness for the State and testified that he did not remember being at Connor's house with Harris on the night of the shooting and that he did not know Strand.[1] He remembered only being at a house when the door flew open, after which he was shot in the face and blacked out. He recalled being shot seven times in the head, hand,

[1] Natasha Haggins, Kamri Harris's mother and Bryan Williams' aunt, had previously testified that Harris and Williams were friendly with Strand and that Strand had been to her house on several occasions.

back, arm, and armpit but said he did not remember who shot him, other than that the shooter wore his hair in dreads. When presented with a photo array the day after the shooting, Williams did not choose Strand as the shooter.

Williams denied having told the police that he had argued with someone earlier in the day on December 8, 2021, so the prosecutor played for him his police interview to determine if it refreshed his recollection. Afterward, Williams recalled that he and the shooter had argued earlier that day over money, that the shooter's nickname was "Danger," and that the shooter had a black and silver gun.

In addition to Williams and Harris, Sheanna Guarnera testified that she and her two daughters were also visiting Myiesha Connor's apartment on the night of December 8, 2021. As Guarnera was getting the children settled for bed, she heard an "aggressive knock" on the front door. From upstairs, she heard "tussling" and "commotion" and then several gun shots, followed by Kamri Harris screaming and a man's voice saying, "he shot me." Guarnera called the police and shepherded the children into the closet of their room to hide. She then decided she had to get the children out of the house and left the room to get her car keys. She saw Williams, bleeding, and Harris run upstairs and lock themselves in a bedroom.

Guarnera took the children downstairs, where she saw a man she had never met, whom she identified in court as Strand, blocking the front door and pointing a "cowboy

gun" toward her on the stairs.[2] Terrified, she yelled that she hadn't seen anything, and she and the children ran back up the stairs to hide.

According to Guarnera, Strand announced himself by his street name—Danger—and came upstairs, knocking on the bedroom doors and telling them to open the door. Guarnera then heard him return downstairs before two more gunshots rang out at the back of the house. The next morning, Guarnera identified Strand in a photo array as the person she saw with the gun.

Strand was arrested at his home in Virginia on December 17, 2021. With consent from the woman lessee, the Virginia police searched the premises. In the common area of the residence, the police located a backpack containing a pair of pants with a wallet holding Strand's identification card in the pocket, a box of 22LR cartridge cases, and a white-handled gun loaded with five 22LR Winchester cartridges. A pair of shoes, a cell phone, keys, a lighter, and headphones were also recovered. Later examination of the contents of the cell phone revealed two photos of Strand standing in front of a white Jeep Renegade.

At trial, the State and defense stipulated that the gun, a .22 caliber handgun, was test fired and determined to be operable. They further stipulated that the .22 caliber bullet and bullet fragment extracted from Williams in the hospital were compared to the gun but that the results were inconclusive as to whether or not the bullets were fired from that particular gun.

[2] In court, Guarnera testified that a photo of the gun recovered from Strand's backpack upon his arrest, looked familiar to her from the night of the shooting.

Brooks Caswell testified that she owned a white Jeep Renegade, which she had lent to her cousin Carrigan Quillian in approximately September 2021. Quillian testified that on December 8, 2021, she had lent the Jeep to her boyfriend, Brandon Messick. Messick was a friend of Strand's, and when Quillian could not reach Messick that night, she texted Strand at approximately 10:00 p.m. asking where he was. Strand did not respond to her message. Messick returned home alone with the Jeep later that night.

Messick, who knew Strand as "Relly," picked Strand up from his house in Virginia in the borrowed Jeep on the evening of December 8, 2021. After hanging out for a while, Strand asked if Messick would take him to see a friend in Salisbury. When they pulled into an apartment complex, Strand told Messick that he'd be right back and to pull over on the other side of the road to wait. Strand came back to the car out of breath about 15 to 20 minutes later. Messick pulled away, and as Strand checked his pockets, Messick heard what sounded like change dropping from his pants. Strand mumbled to Messick, "I got to go back" and something that sounded like he "missed."

Messick turned around and returned to the same place he had dropped Strand initially, and Strand left the car for another ten to 15 minutes, again returning out of breath. Messick drove them back to Strand's house in Virginia. As they left the area, Messick saw several police cars arriving.

Messick later told the police he had seen Strand with a gun that night. At trial, Messick testified that after Strand returned to the car the first time, he "caught a quick glimpse of a white-handled revolver."

Quillian returned the Jeep to Caswell in February 2022. When Caswell cleaned out the Jeep, she found a live .22 caliber bullet underneath the passenger seat, a scale, and some drugs.[3]

Strand did not testify at trial, but instead requested that his post-arrest interview with the police be played for the jury in its entirety. In the interview, Strand initially denied having been in Salisbury on the night of the incident. Later, he acknowledged that he and Williams had been involved in an argument over the phone on December 8, 2021. That night, a person he would not name drove him to the apartment in Salisbury where he knew Williams would be. Strand admitted to being armed with a gun that was visible in his pocket.

The two men argued, moving outside because children were sleeping inside. Williams slammed the apartment door in Strand's face. When Strand opened the door and went inside the apartment, Williams's back was toward him. Strand said he believed Williams was reaching for something, perhaps a gun, so Strand shot him. Strand did not say that he saw a weapon at the apartment or that he feared for his life.

[3] The trial court instructed the jury that the scale and drugs were not to be attributed to Strand in any way.

DISCUSSION

I. ADMISSION OF GUN EVIDENCE

In his first issue, Strand contends that the trial court erred in admitting into evidence photos of the gun and ammunition that were recovered from his backpack upon his arrest.[4] Strand asserts that because the State was unable to confirm that Williams had been shot with that gun, the State could not conclusively connect the recovered gun and ammunition with the charged crimes. Thus, he argues that the evidence was not relevant and its admission was more prejudicial than probative. We disagree.

Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." MD. R. 5-401. "Having 'any tendency' to make 'any fact' more or less probable is a very low bar to meet." *Williams v. State*, 457 Md. 551, 564 (2018) (citing *State v. Simms*, 420 Md. 705, 727 (2011)). And generally, all relevant evidence is admissible. MD. R. 5-402.

Still, a trial court may exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice or other countervailing concerns. *Montague v. State*, 471 Md. 657, 674 (2020); MD. R. 5-403. We do not exclude relevant evidence merely because it is prejudicial, however, as "[a]ll evidence, by its nature, is prejudicial." *Williams*, 457 Md. at 572. Rather, relevant evidence may be

[4] Although Strand specifically references as objectionable the introduction of the photos of the gun, we consider, as part of the "gun evidence" of which he complains, the actual gun and ammunition, which were also admitted into evidence.

excluded when it is *unfairly* prejudicial in a way that *substantially* outweighs its probative value. *Montague*, 471 Md. at 674. Unfair prejudice outweighs probative value if it "'tends to have some adverse effect ... beyond tending to prove the fact or issue that justified its admission.'" *Id*. (quoting *State v. Heath*, 464 Md. 445, 464 (2019)); *see also* MD. R. 5-403.

The threshold determination of whether evidence is relevant is a legal conclusion that we review without deference. *Fuentes v. State*, 454 Md. 296, 325 n.13 (2017). A trial court has no discretion to admit irrelevant evidence. MD. R. 5-402. If we determine that evidence was relevant, "our review shifts to a consideration of whether the trial court's ruling was a sound exercise of discretion." *Molina v. State*, 244 Md. App. 67, 127 (2019).

Although the State's firearms expert was unable to conclusively determine that the bullet and bullet fragment recovered from Williams after the shooting were fired from the gun, the bullet and bullet fragment were determined to be .22 caliber ammunition, the same caliber as the ammunition recovered from Strand's backpack and used in the gun. Guarnera saw the gun at relatively close range as the shooter pointed it at her and testified that it looked like a "cowboy gun." When she was shown a photo of the gun recovered from Strand's backpack, she testified it looked familiar to her from the night of the shooting. Harris also saw the gun, describing it as a little revolver. And Messick, who drove Strand to the scene of the shooting, said he saw that Strand had a white-handled revolver that night. All the witnesses who described the gun used by the shooter were consistent in their description of the gun, which generally matched the depiction of the gun in the photos taken of the items in Strand's backpack. And Strand admitted that he had taken a gun with him to the Jersey Road apartment and shot Williams with it.

We conclude that the State sufficiently connected the gun used in the shooting and the gun and ammunition recovered from Strand's backpack days after the shooting such that the evidence was relevant to the identity of the perpetrator of the charged crimes.[5] The gun, ammunition, and photos were therefore relevant and probative. Moreover, we cannot say that the trial court abused its discretion in deciding that the evidence was not unduly prejudicial to Strand. Thus, we perceive no error in admitting it.[6]

II. ADMISSION INTO EVIDENCE OF BULLET RECOVERED FROM JEEP RENEGADE

Strand next argues that the trial court erred in admitting into evidence the single .22 caliber bullet recovered from Caswell's Jeep Renegade more than two months after the shooting. Strand argues that given the lapse of time between the shooting and the discovery of the bullet, the evidence was irrelevant and unduly prejudicial to the gun charges against him. Again, we disagree.

It was undisputed at trial that Caswell had lent her Jeep to her cousin, Quillian, and that Quillian had permitted her boyfriend, Messick, to use the vehicle on the night of the

[5] To the extent that Strand argues that the gun and ammunition evidence may have been inadmissible because it constituted other crimes evidence, that contention is unpreserved because it was not raised before the trial court. Generally, Maryland litigants need not state the grounds for an objection to the admission of evidence unless directed to do so. *DeLeon v. State*, 407 Md. 16, 24-25 (2008); MD. R. 2-517(a). If, however, grounds are stated, the litigant is limited to arguing only those grounds specifically raised. *DeLeon*, 407 Md at 25. Because Strand raises the issue of other crimes evidence for the first time on appeal, it has been waived. *Id*.

[6] Any error in admitting the evidence would have been harmless because it was cumulative of other evidence presented at trial. *Dove v. State*, 415 Md. 727, 743-44 (2010). Strand admitted, during his police interview, which was played for the jury, that he arrived at the scene of the shooting with a gun on the night in question and that he shot Williams.

shooting. It was also undisputed that Messick drove Strand to and from the scene of the shooting in that Jeep. Upon Strand's first return to the vehicle, Messick observed him checking his pockets and heard what he initially thought might have been the metallic sound of coins dropping to the floor of the Jeep, but what the jury reasonably might have inferred was the bullet. Messick also saw that Strand had a white handled revolver. Quillian did not return the Jeep to Caswell until February 2022, two months after the shooting. Caswell then promptly cleaned it, finding the single .22 caliber bullet under the passenger seat in which Strand presumably sat on December 8, 2021.

The bullet was of the same caliber as those used in the shooting and in the gun recovered from Strand and was recovered from the vehicle used to transport Strand to the scene of the crime. We, therefore, conclude that the trial court did not err in ruling that the evidence was relevant to the identity of the shooter and its admission was not unduly prejudicial to Strand.

III. JURY INSTRUCTION OF IMPERFECT SELF-DEFENSE

Finally, Strand argues that the trial court erred in declining to instruct the jury on imperfect self-defense. Strand asserts that his honest subjective fear that Williams possibly was reaching for a weapon when he slammed the door on Strand and turned toward the interior of the house where his friends outnumbered Strand provided at least some evidence of each element of imperfect self-defense.

A trial court must give a requested jury instruction when "(1) it is a correct statement of the law; (2) it is applicable under the facts of the case; and (3) its content was not fairly covered elsewhere in the jury instructions actually given." *Hayes v. State*, 247 Md. App.

252, 288 (2020) (cleaned up); *see also* MD. R. 4-325(c). A requested instruction is applicable under the facts of the case "if the evidence is sufficient to permit a jury to find its factual predicate." *Hayes*, 247 Md. App. at 288. This threshold determination is a question of law, and the evidentiary requirement is low. *Id*. "[T]he requesting party need only produce *some* evidence to support the requested instruction." *Id*. (emphasis added). On appeal, we view the facts in the light most favorable to the party requesting the instruction to determine whether they "produced the minimum amount of evidence necessary to generate the instruction." *Id*. Unless there has been an error of law, the decision to give a jury instruction is left to the discretion of the trial court. *Id*.

The requested instruction here concerned self-defense. Self-defense has two forms: perfect and imperfect. Perfect self-defense is a complete defense and compels acquittal. *Porter v. State*, 455 Md. 220, 234-35 (2017). Its four elements are:

> (1) The accused must have had reasonable grounds to believe himself in *apparent* imminent or immediate danger of death or serious bodily harm from his assailant or potential assailant;
>
> (2) The accused must have in fact believed himself in this danger;
>
> (3) The accused claiming the right of self-defense must not have been the aggressor or provoked the conflict; and
>
> (4) The force used must have not been unreasonable and excessive, that is, the force must not have been more force than the exigency demanded.

Id. at 234-35 (emphasis in original).

In contrast, imperfect self-defense does not require that the defendant's belief be reasonable or that he use reasonable force. *Id.* at 235. Rather, he must only show that he actually—even if unreasonably—believed that he was in danger; that he actually—even if

unreasonably—believed that the amount of force used was necessary; and that he subjectively—even if unreasonably—believed that retreat was not safe. *Id.* As a mitigating factor rather than complete defense, imperfect self-defense's chief characteristic is that it operates to negate malice, a necessary element of murder, or, in this case, attempted murder. *Id.* at 236. Thus, it does not result in complete exoneration, but instead mitigates (attempted) murder to (attempted) voluntary manslaughter. *Id.*

Thus, for a requested instruction on imperfect self-defense to be applicable, a defendant need only produce "'some evidence,' to support each element of [his] legal theory before the requested instruction is warranted." *Marquardt v. State*, 164 Md. App. 95, 131 (2005), *overruled in part on other grounds by Kazadi v. State*, 467 Md. 1, 27 (2020)). The defendant's burden of production is not onerous, and the source of the evidence is immaterial. It may come solely from the defendant, and it does not matter if the self-defense claim is overwhelmed by evidence to the contrary. *Dykes v. State*, 319 Md. 206, 216-17 (1990). "If there is any evidence relied on by the defendant which, if believed, would support his claim that he acted in self-defense, the defendant has met his burden." *Id*. at 217. Despite the low evidentiary threshold, however, "partial proof of one component of self-defense [should not] divert attention from [a defendant's] utter failure to produce even a *prima facie* case as to the other necessary element[s]." *Cunningham v. State*, 58 Md. App. 249, 257 (1984) (emphasis in original).

Because Strand did not testify, the only evidence he presented in support of his claim of imperfect self-defense was in the form of his interview with the police after his arrest, which he requested that the jury view in its entirety. Viewing that evidence in the light

most favorable to Strand, and assuming for the sake of argument that it provided sufficient evidence that Strand actually believed himself to be in imminent danger of death or bodily harm from Williams, we nonetheless cannot say that Strand provided sufficient evidence to show that he was not the aggressor, that he believed retreat was not safe, or that his use of force was not unreasonable or excessive.

After the argument with Williams earlier that day, Strand asked Messick to drive him from Virginia to the apartment in Maryland where he knew Williams would be. Strand brought a gun with him, which he acknowledged was visible in his pocket. He knocked on the door to the apartment and engaged in further argument with Williams, after which Williams slammed the door in his face, thus ending the encounter. Even if we were to assume that the argument between Strand and Williams was mutual, as mutual combatants, Strand and Williams were both "aggressors in the conflict," and an aggressor cannot claim imperfect self-defense. *Holt v. State*, 236 Md. App. 604, 625 (2018).

Next, instead of accepting the end of the argument and retreating to the safety of Messick's car, Strand re-opened the door to the apartment, where he claimed to have seen Williams appearing to reach for something with his back turned toward the door. Afraid Williams was reaching for a gun, Strand told the police, he fired. Even if that were true, and even if Strand could argue that he subjectively believed that the first shot or shots he took at or near the front door were a reasonable use of force in light of his own fear of being shot, Strand still did not retreat. Instead, Strand followed Williams through the two-story apartment, knocking on doors, ordering Williams to come out, and shooting him a total of seven times, including twice in the head. Those actions bely any claim of Strand's

continued fear of Williams, who was already severely injured and running away from him, or Strand's stated apprehension of being outnumbered by Williams' friends in the apartment, all of whom hid when they heard the gunshots.

On these facts, we conclude that an imperfect self-defense instruction was not warranted. Even if we credit Strand's "thought process as enough to generate an honest, though unreasonable, belief that he was in deadly peril, all of the testimony establish[ed] unequivocally that [Strand] was the aggressor and there was no shred of evidence to indicate otherwise." *Cunningham*, 58 Md. App. at 257. Thus, the trial court did not abuse its discretion in determining that Strand had not produced enough evidence to raise the issue of imperfect self-defense.

JUDGMENTS OF THE CIRCUIT COURT FOR WICOMICO COUNTY AFFIRMED; COSTS ASSESSED TO APPELLANT.