Circuit Court for Baltimore City
Case No. 122224020

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 725

September Term, 2023

RASHIK ALI

v.

STATE OF MARYLAND

Berger,
Albright,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wilner, J.

Filed: November 20, 2024

Appellant was convicted by a jury sitting in the Circuit Court for Baltimore City of unlawful possession of cocaine—a controlled dangerous substance—and possession of a firearm after a disqualifying conviction, for which he was sentenced to prison for ten years. The only issue raised in this appeal is whether the trial court abused its discretion in refusing to recuse itself after first accepting and then rejecting a plea agreement offered by appellant and accepted by the State. We find no abuse of discretion in the court's refusal to recuse and shall therefore affirm the judgment entered below.

Underlying Facts

This case began when a Baltimore City police officer observed that the driver of a car traveling through the city was not wearing a seat belt and attempted to make a traffic stop,[1] but the driver—appellant—drove away. During a short chase, the officer observed a passenger in the car throw a gun out of the window. The chase ended a few minutes later when appellant left the car and attempted to flee on foot. He was caught and arrested. A search of the car revealed both cocaine in the car and a firearm near the driver's seat. That is what led to the charges in the case.

The Plea Agreement

Appellant previously had been convicted of a similar offense and was therefore not permitted to be in possession of a regulated firearm. See Md. Code, Public Safety Article, § 5-133(b)(1). On May 30, 2023, appellant and the two other men who had been in the car

[1] Md. Code, Section 22-412.3(b) of the Transportation Article provides, in relevant part, that a person may not operate a motor vehicle unless the person is restrained by a seat belt.

appeared for trial. The prosecutor informed the trial court of the earlier conviction and that appellant had been sentenced to ten years in prison, with all but five years suspended, subject to three years of probation. The court also was informed that appellant and the State had reached a plea agreement in the new case that was essentially the same as the previous disposition—a guilty plea to two counts of possession of a weapon after a disqualifying conviction with a sentence of five years of imprisonment—and that the State would be dismissing the drug charges and the charges against the other two defendants.

The court was skeptical, noting that the State was offering "the same thing he got before on a handgun charge, which seems to have had no impact on him" and "I don't think it's an appropriate sentence for someone with Mr. Ali's record." Nonetheless, the court said "I will accept it, but I don't like it." The prosecutor responded that his original offer was eight years in prison, but after discussions with appellant's attorney, the prosecutor's supervisor approved the five-year sentence. The court questioned why the State had charged the other two men in the car, but, during its questioning, was constantly interrupted by the prosecutor, much to the judge's annoyance, to the point where the judge simply said, "I am not accepting the plea" and "I'll see you guys in the morning at nine o'clock" adding, in a specific comment to the prosecutor, "how dare you continue talking when I tell you that I'm talking." When the prosecutor apologized, the court responded: "It's not accepted."

The next day—May 31, 2023—counsel informed the court that, notwithstanding what occurred the day before, appellant still wished to enter a guilty plea on counts four

and five of the indictment, which the court again rejected, explaining that there were too many guns and drugs in Baltimore City and "to give away a case like that with no good reason, is unacceptable to the Court."

The demise of the plea bargain led appellant to move to recuse the trial judge, which the court rejected, stating that "I can be fair and impartial. Just because I don't like the plea does not mean that I cannot be fair and impartial."

Analysis

We begin with the proposition set forth in Rule 4-243(c)(2) that the agreement of the State's Attorney relating to a particular sentence or other disposition is not binding on the court unless the judge to whom the agreement is presented approves it. As recognized in *Conner v. State*, 472 Md. 722, 749 (2021), it is not unusual, in considering whether to approve such an agreement, for judges to be exposed to inadmissible evidence or disputed evidentiary matters prior to adjudicating a case, but that does not require recusal. "To the contrary," the Court added, "the presumption of impartiality carries with it the presumption that a judge will discard from his or her mind personal biases, inadmissible evidence, and other irrelevant matters in deciding a case." *Id.*

In a footnote, the Court added that, while it may be difficult for lay people to embrace that kind of compartmentalization, "it is a foundational and traditional principle of long standing in the judicial process, one we have no doubt our Maryland brethren [and sistern] are able to, and do, follow, unless a record demonstrates to the contrary."

We find nothing in this record that demonstrates "the contrary". Indeed, appellant notes in his brief that the court's ["formulation of] an opinion about Ali's guilt is not so problematic when taken by itself, given that Ali had by this point agreed to plead guilty" but complains only about the court's expressing an opinion on the record as to why the plea was rejected. But requiring a recusal based on that would preclude any judge who verbally rejects a plea agreement and states the reasons for doing so from then trying the case. Recusal may be required, of course, if the judge's remarks indicate a true bias against the defendant likely to play out in further proceedings, but, although the judge was properly annoyed at the *prosecutor's* interruptions, as was defense counsel, it was clear from the beginning that it had, and expressed, deep concerns about the leniency of the plea itself.

That did not weigh on whether the court could or would conduct a fair trial.

JUDGMENT AFFIRMED. APPELLANT TO PAY THE COSTS.