Circuit Court for Worcester County
Case No. C-23-CR-22-000053

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 898

September Term, 2023

SHERRONTE M. ROBINS

v.

STATE OF MARYLAND

Arthur,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 19, 2024

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Convicted by a jury in the Circuit Court for Worcester County of second degree murder and related offenses, Sherronte M. Robins, appellant, presents for our review a single issue: whether the court erred "in refusing to instruct the jury on voluntary intoxication." For the reasons that follow, we shall affirm the judgments of the circuit court.

Mr. Robins was initially charged by criminal information with first degree murder and related offenses. Prior to trial, Mr. Robins requested that the court give the jury, among other instructions, the Maryland Criminal Pattern Jury Instruction on voluntary intoxication. At trial, the prosecutor, in opening statement, contended that the evidence would show that the victim, Nicholas Pittman, died of a "stab wound directly to the left side of his neck," that Mr. Robins inflicted the wound, and that Mr. Robins intended to kill the victim. Defense counsel, in his opening statement, conceded that Mr. Robins "had a knife and caused [the] cut" that killed Mr. Pittman, but contended that the evidence would show that "both Mr. Robins and Mr. Pittman were . . . severely intoxicated," and that Mr. Robins "did not intend to kill Mr. Pittman."

The State subsequently produced evidence that Mr. Robins and Mr. Pittman shared a room at the Rambler Motel in Ocean City. On January 24, 2022, paramedics were dispatched in response to a call from the motel. When the paramedics arrived, they discovered Mr. Pittman bleeding from a "laceration on the left side of his neck." The paramedics subsequently ended "resuscitation efforts . . . because [Mr. Pittman] presented as deceased on scene." Maryland State Police crime scene technicians later investigated the scene and discovered, underneath a truck, a knife.

The State also called Corporal Paul Bissman of the Worcester County Sheriff's Office, who testified that he responded to the call from the motel. Arriving at the motel, the corporal discovered Mr. Pittman "lying on the ground" with "a large loss of blood coming from his neck." While Corporal Bissman "was assessing the scene," he saw Mr. Robins "walking casually towards [the corporal] from the south end of the units." Mr. Robins "wasn't in any hurry to get to the victim or get to anywhere," "was walking just as if he was walking down the street," and "was walking normally," with nothing "impairing his balance" such as "a limp or anything like that."

The State subsequently played for the jury a video recording made by a camera inside Corporal Bissman's vehicle. The corporal asked Mr. Robins "what happened," and Mr. Robins stated that Mr. Pittman "was drunk and . . . tried to attack" Mr. Robins. Mr. Robins further stated that he and Mr. Pittman "had been drinking all day long," and Mr. Pittman "tried to stab [Mr. Robins] with a . . . knife in the room." After Corporal Bissman read to Mr. Robins his "*Miranda* rights," he stated that he had "been drinking all day long," Mr. Pittman had "pulled a knife on" Mr. Robins, and Mr. Pittman had "disrespect[ed]" Mr. Robins. Corporal Bissman confirmed that during his "time as an officer," he has on "multiple" occasions "come into contact with people [he] may believe to be under the influence of alcohol or drugs," and had "received . . . training or certifications in detecting if people are under the influence of alcohol or drugs." Corporal Bissman testified that in his "interactions with" Mr. Robins, the corporal "didn't see anything . . . that [Mr. Robins] was highly intoxicated."

The State also called Maryland State Trooper Kristi Allen, who confirmed that she "assume[d] lead of [the] investigation" of Mr. Pittman's death. Trooper Allen testified that she and a Worcester County detective conducted an interview of Mr. Robins, during which he stated that he and Mr. Pittman had been "drinking a lot," Mr. Pittman had "disrespect[ed Mr. Robins's] place," and Mr. Pittman had "pulled a knife on" Mr. Robins. Mr. Robins subsequently "hit the knife" out of Mr. Pittman's hand, picked it up, "aimed high," and swung backwards at Mr. Pittman. Mr. Robins also stated that Mr. Pittman had agreed to pay Mr. Robins $13 to store Mr. Pittman's clothes while he was in Florida, but Mr. Pittman had failed to pay Mr. Robins. Mr. Robins stated that he subsequently "threw [Mr. Pittman's] clothes in the trash," and that Mr. Pittman had "a little attitude about that." Trooper Allen confirmed that during her "time as a Maryland State Trooper," she had "the opportunity to come into contact with intoxicated persons" and "participate in alcohol-related traffic stops, DUIs, DWIs, [and] things of that nature," had conducted "[a]pproximately 50 or more" stops for "DUI," received "specialized training or certifications on how to conduct . . . standardized field sobriety tests," and is "familiar with . . . the observable signs of possible intoxication." The trooper confirmed that at the time of the interview, Mr. Robins did not "exhibit any signs of intoxication."

Trooper Allen testified that she seized Mr. Robins's cell phone, and that data was subsequently extracted from that phone and Mr. Pittman's cell phone. Reviewing the data, the trooper discovered "a text message thread between" the phones "from December of the prior year." On December 9, 2021, Mr. Robins sent to Mr. Pittman a message that stated: "Don't do that where I stay I've told you before you not paying you not staying and I'm

not playing too you old for that dumb shit [I'm] not on that you eat my shit up spill shit and get shitty you have nothing here you got a little crazy that's your problem not mine I told you." From that date to January 5, 2022, Mr. Robins sent to Mr. Pittman additional messages in which Mr. Robins stated, among other statements, "[l]eave the young boys alone," "I ain't charge you much and you couldn't pay that," "I'm done with [y]ou," "get it together," "you disrespect my place," "you spilling shit all the time," "you ain't got no reason to come by my spot again," "you gotta pay somebody," "[y]ou dead over here for real this time," "[b]ring me my foodstamp card wtf wrong with you man," "[b]ring my shit and stop spending my money," "[y]our [sic] dead bro," "[y]ou can't just go . . . do that your [sic] dead," "you tried to throw my shit in the trash," and "if you ever throw my shit away boy you gonna know it grow up."

Following the close of the evidence, the court informed Mr. Robins that the prosecutor and defense counsel would go "back in chambers" to "hash[] through which instructions should be read to the jury," that there was "going to be some argument regarding a particular one or two instructions that [defense counsel had] requested," and that those arguments would "be on the record" and Mr. Robins would "be present for those particular arguments." Following a recess for lunch, the parties appeared before the court, and the following colloquy occurred:

> [THE COURT:] I've met extensively with counsel in chambers discussing the proposed jury instructions or the requested jury instructions and what the [c]ourt was inclined to give considering the, let's say, informal arguments back in chambers from the attorneys. I have compiled what I believe to be the appropriate instructions that have been generated by the evidence in this case, and those instructions have been duplicated and presented to counsel for their review and, at this time, comments.

So, [prosecutor], any exceptions or additional requests regarding the instructions?

[PROSECUTOR]: No, Your Honor.

THE COURT: Okay. Any exception or do you take any issue with the form or content of the verdict sheet?

[PROSECUTOR]: No, Your Honor.

THE COURT: All right. [Defense counsel], the same questions?

[DEFENSE COUNSEL]: No on both.

The court subsequently instructed the jury, omitting the pattern instruction on voluntary intoxication. Following the instructions, the court asked the parties if they had "[a]ny exceptions or additions." Defense counsel stated: "No, Your Honor."

After the jury retired to begin deliberations, the following colloquy occurred:

THE COURT: After meeting in chambers with counsel to discuss jury instructions, there were prolonged discussions, argument, case law that was argued regarding particular instructions. The [c]ourt made decisions back in chambers. I adhered to those decisions in my compilation of the instructions themselves. Copies were given to the attorneys, and I gave them the opportunity to note any objections, exceptions, additions. Neither the State, nor the defense, noted any objections, didn't ask for any additional instructions or note any exceptions. And I think it important, in the event that there is a review of the case, for me to at least complete the record.

[Defense counsel], on behalf of Mr. Robins, requested a voluntary intoxication instruction –

[DEFENSE COUNSEL]: I did.

THE COURT: – and a self-defense instruction.

[DEFENSE COUNSEL]: I did.

THE COURT: The State objected to both of those instructions.

[PROSECUTOR]: Yes, Your Honor.

[DEFENSE COUNSEL]: They did.

THE COURT: And the [c]ourt, based on its review in that brief period of time in which they were requested and considering the evidence that had been presented over the three days, made the determination that I would, in fact – I found, in my mind, at least, and am finding now to preserve the record, that there was produced a minimum threshold of evidence necessary to establish a prima [facie] case that would allow a jury to rationally conclude that the evidence supports the application of the legal theory of self-defense. I found that there was not a minimum threshold reached when it came to the legal theory of voluntary intoxication.

[PROSECUTOR]: Yes.

THE COURT: I'm not going to go any further onto the record regarding the evidence that I believe supported one theory and didn't support or was absent –

[PROSECUTOR]: Yes.

THE COURT: – for the other theory. But, again, in the event that there's some appellate review of this case, I don't want someone to complain that [defense counsel] did not request –

[PROSECUTOR]: Yes.

THE COURT: – the instruction for voluntary intoxication. I simply considered it and decided not to give it, and the State objected to both of those instructions.

[PROSECUTOR]: Yes. I agree with all of what the [c]ourt just said, Your Honor.

THE COURT: All right. Anything for the record that you want to expound on?

[DEFENSE COUNSEL]: No. The defense also agrees with all that.

Following deliberations, the jury acquitted Mr. Robins of first degree murder, but convicted him of second degree murder and related offenses.

Mr. Robins contends that the court "err[ed] in refusing to instruct the jury on voluntary intoxication, where there was abundant evidence that [he] had been drinking heavily on the day of the crime and was clearly suffering from chronic, late-stage alcoholism." Mr. Robins cites the following statements made during his interview with Trooper Allen as "evidence of alcohol's scourge:"

- "I get real bad with the alcohol, I get sick."
- "I need it more than anything."
- "I've got to have it to function."
- "[I]t's going to be tough for me just to get through this process."

The State counters that Mr. Robins's contention "was affirmatively waived at trial and should not be reviewed by this Court." Alternatively, the State contends that the contention "lacks merit because no evidence existed to show that [Mr.] Robins was intoxicated to a degree precluding his ability to form criminal intent."

We disagree with the State as to whether Mr. Robins's contention is preserved for our review. Rule 4-323(c) states that "[f]or purposes of review . . . on appeal of any . . . ruling or order" other than on an objection to the admission of evidence, "it is sufficient that a party, at the time the ruling or order is made or sought, makes known to the court the action that the party desires the court to take or the objection to the action of the court." Here, defense counsel made known to the court prior to trial his desire that the court give to the jury the pattern instruction on voluntary intoxication. Also, the court explicitly stated

that defense counsel had re-raised the request in chambers, the State had objected to the giving of the instruction, the court had reviewed the merits of the request, the court had subsequently denied the request, and the court was "complet[ing] the record" for the purpose of potential "appellate review." The court clearly knew the action that Mr. Robins desired the court to take, and hence, his contention is preserved for our review.

Nevertheless, we reject Mr. Robins's contention. In *Bazzle v. State*, 426 Md. 541 (2012), the Supreme Court of Maryland stated:

> A requested jury instruction is applicable if the evidence is sufficient to permit a jury to find its factual predicate. . . . .
>
> As we explained in *Dykes v. State,* 319 Md. 206, 216-17, 571 A.2d 1251, 1257 (1990), the threshold is low, as a defendant needs only to produce "some evidence" that supports the requested instruction:
>
> > *Some evidence* is not strictured by the test of a specific standard. It calls for no more than what it says – "some," as that word is understood in common, everyday usage. It need not rise to the level of "beyond reasonable doubt" or "clear and convincing" or "preponderance." The source of the evidence is immaterial; it may emanate solely from the defendant. It is of no matter that the self-defense claim is overwhelmed by evidence to the contrary. If there is any evidence relied on by the defendant which, if believed, would support his claim . . . the defendant has met his burden. Then the baton is passed to the State. It must shoulder the burden of proving beyond a reasonable doubt to the satisfaction of the jury [the specific facts stated in the instruction].
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> * * *
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> As we said in *Hook v. State,* mere intoxication is insufficient to negate a specific intent:
>
> > Evidence of drunkenness which falls short of a **proven incapacity in the accused to form the intent necessary to constitute the crime** merely establishes that the mind was

> affected by drink so that he more readily gave way to some violent passion and **does not rebut the presumption that a man intends the natural consequence of his act.** (Emphasis added.) (Citation and quotation marks omitted.)

Hook v. State, 315 Md. 25, 31 n. 9, 553 A.2d 233, 236 n. 9 (1989) . . . .

> In light of the high degree of intoxication required to negate a specific intent, we agree with the reasoning of . . . *Lewis* [*v. State*, 79 Md. App. 1 (1989),] that the mere consumption of alcohol, with no evidence as to the effect of that alcohol on the defendant, would not permit a jury reasonably to conclude that he had lost control of his mental faculties to such an extent as to render him unable to form the intent. A defendant is not entitled to an instruction on voluntary intoxication unless he can point to some evidence that would allow a jury to rationally conclude that his intoxication made him incapable of forming the intent necessary to constitute the crime. Mere drunkenness does not equate to the level of intoxication necessary to generate a jury instruction on intoxication as a defense to a crime.

Bazzle, 426 Md. at 550-51, 553-55 (citations, quotations, brackets, and footnotes omitted). Thus, *Bazzle* stands for the twin propositions that to support a jury instruction, defendants must provide "some evidence" that their consumption of alcohol rendered them unable to form the requisite intent to commit the crime charged, but that evidence of mere drunkenness or alcoholism without such evidence does not.

Here, the evidence that Mr. Robins "had been drinking heavily on the day of the crime" merely establishes that his mind was so affected by drink that he more readily gave way to a violent passion. This evidence, however, does not support the conclusion that he lacked the capacity to form the necessary intent, and does not rebut the presumption that Mr. Robins intended the natural consequence of his act. Also, Mr. Robins does not specify any evidence from which a jury could rationally conclude that he was suffering from "chronic, late-stage alcoholism," or cite any authority that states that such an affliction

equates to the level of intoxication to prevent him from having formed the requisite intent. Mr. Robins was not entitled to an instruction on voluntary intoxication, and hence, the court did not err in denying his request that the jury be given such an instruction.

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