Circuit Court for Baltimore City
Case No. 121243007

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1220

September Term, 2023

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CHARLES BALDWIN

v.

STATE OF MARYLAND

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Graeff,
Tang,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Eyler, J.

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Filed: November 12, 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 its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Charles Baldwin, the appellant, and Mizell Joseph Taylor were tried jointly before a jury in the Circuit Court for Baltimore City on charges arising out of two fatal shootings and one nonfatal shooting that took place in Baltimore. Mr. Baldwin was found guilty of reckless endangerment and was acquitted of all other charges.[1] The court sentenced him to five years' imprisonment.[2] He noted an appeal, raising one issue:

> Did the trial court's refusal to question the venire in non-compound form about its ability to consider the charges impartially violate [the appellant's] constitutional right to a fair trial?

Because this issue is waived, we shall affirm the judgment.

## FACTS AND PROCEEDINGS

The facts surrounding the shootings are not relevant to the issue on appeal. For our purposes, it suffices to say that the evidence was sufficient to sustain Mr. Baldwin's conviction of reckless endangerment; indeed, he does not contend otherwise. We therefore forego a detailed recitation of the underlying facts and set forth only those procedural facts

[1] The indictment charged Mr. Baldwin with ten offenses: (1) first-degree murder of Pedro Chesley; (2) conspiracy to rob Mr. Chesley with a dangerous weapon; (3) use of a firearm in the commission of a crime of violence; (4) first-degree murder of Diamond Davis; (5) conspiracy to rob Ms. Davis with a dangerous weapon; (6) use of a firearm in the commission of a crime of violence; (7) first-degree assault of Brittany McQueen; (8) reckless endangerment of Ms. McQueen; (9) use of a firearm in the commission of a crime of violence; and (10) wearing, carrying, and transporting a handgun on his person. Those charges and two lesser-included offenses (second-degree murder of Mr. Chesley and Ms. Davis) were submitted to the jury for decision.

[2] Mr. Taylor was found guilty of first-degree assault; use of a firearm in the commission of a felony; and wearing, carrying, and transporting a handgun on his person, as well as lesser-included offenses. The court sentenced him to aggregate terms of incarceration totaling forty-eight years, the first five years without the possibility of parole. He noted an appeal, which we address in a separate opinion. *Taylor v. State*, No. 1128, Sept. Term, 2023.

relevant to the issue before us.[3] *See, e.g.*, *Lopez-Villa v. State*, 478 Md. 1, 5 (2022) (foregoing a detailed recitation of the underlying facts because they were "largely irrelevant to the issues on appeal" (quotation marks and citation omitted)).

Prior to voir dire, the trial judge discussed proposed questions with counsel. The following colloquy took place:

> [MR. BALDWIN'S COUNSEL]: Question eight, the strong feelings question, I would ask for it to be turned into basically two [sic] questions. Ask, you know, strong feelings related to the crime of murder and then second, to ask strong feelings related to a use of a firearm in the commission of a crime of violence, and the third question with regards to robbery. I'd like instead of having it all kind of one long question, ask three separate questions.
>
> THE COURT: Is there any reason why I won't just use murder and use of a firearm in the commission of a crime of violence?
>
> [MR. BALDWIN'S COUNSEL]: I'd like the robbery in there also because that's the last component of this. And somebody might have a prior experience of being robbed and they have strong feelings towards that versus…
>
> THE COURT: So I'm just going to say strong -- related to murder, use of a handgun in the commission of a crime of violence, and robbery -- and/or robbery.
>
> [MR. BALDWIN'S COUNSEL]: Thank you, your Honor.

Thereafter, the court posed the following "strong feelings" question to the venire:

> THE COURT: . . . The State alleges that the defendants committed crimes related to murder, use of a firearm in the commission of a crime of violence, and/or robbery.
>
> Does anyone have strong feelings about these crimes which would affect your ability to sit fairly and impartially? If so, please stand.

[3] Our opinion in *Taylor v. State* summarizes the underlying facts that led to the charges against Mr. Baldwin.

Prospective jurors 5604, 4666, 4990, 4905, 4900, 4880, 4911, 4975, 4816, 4872, 4843, and 4707 stood in response. After propounding all the voir dire questions to the venire, the court asked, "Is there any objection?" Mr. Baldwin's lawyer replied, "[Inaudible 12:27:30] three separate issues."[4]

After individual questioning, all those prospective jurors were dismissed. The court recessed for the day because it lacked a sufficient number of prospective jurors to continue jury selection.

When the case was recalled the next morning and additional venire persons were summoned, the trial judge once again read the voir dire questions, including the "strong feelings" question at issue on appeal.[5] Prospective jurors 6083, 6142, 6123, 6090, 6216, 6266, and 6030 stood in response. Subsequently, the trial judge asked counsel whether there were "any objection[s] to voir dire[,]" to which Mr. Baldwin's lawyer replied, "I'm just bringing up my same objection from yesterday."

[4] Mr. Baldwin's lawyer thereafter executed an affidavit, attached to Mr. Baldwin's brief, averring that the "'inaudible' portion of [his] objection is a renewal on the same grounds raised before." There has been no motion to correct the record, which is the proper way to include the affidavit in the appellate record. Md. Rule 8-414(b). Nevertheless, we infer from the uncorrected transcript that Mr. Baldwin's lawyer appeared to object in the trial court on the ground he avers in his affidavit.

[5] The only differences between the question as read on the first and second days of voir dire are that, in propounding the question a second time, the circuit court added the words "with a dangerous weapon" after "robbery" and slightly reworded the "strong feelings" part of the question. Neither party contends that these slight differences are material to the issue on appeal.

After individual questioning, prospective jurors 6030, 6083, 6090, 6123, and 6216 were dismissed. Prospective jurors 6142 and 6266 were not seated on the jury because the process concluded before their numbers were reached.

Near the conclusion of jury selection,[6] the trial judge asked whether there were any objections to the empaneled venire:

THE CLERK: Is the panel acceptable to Defense Number 1?

[MR. BALDWIN'S COUNSEL]: Court's indulgence. Acceptable.

**DISCUSSION**

Mr. Baldwin contends the trial court violated his constitutional right to a fair trial by refusing to question the venire in non-compound form about its ability to consider the charges impartially. Specifically, he asserts that the trial court erred by propounding a compound "strong feelings" question, in violation of *Dingle v. State*, 361 Md. 1 (2000), and its progeny. He maintains that, as a consequence, the jurors self-evaluated whether they could be impartial, preventing the trial court and the parties from properly screening the venire.

The State counters that this issue is doubly unpreserved. According to the State, Mr. Baldwin's lawyer objected to the compound voir dire question on a different ground than is now raised on appeal; and furthermore, the unqualified acceptance of the venire upon the conclusion of jury selection operated as a waiver of the issue on appeal.

We agree with the State that the issue raised on appeal is doubly waived.

[6] The court and the parties thereafter selected the alternate jurors, but trial counsel did not raise any objection to the empaneled venire at that time.

*1. Waiver Based Upon Failure to Raise the Issue Below*

Objections to matters other than evidentiary rulings in criminal trials is governed by Maryland Rule 4-323(c), which provides:

> (c) **Objections to other rulings or orders.** — For purposes of review by the trial court or on appeal of any other ruling or order, 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. The grounds for the objection need not be stated unless these rules expressly provide otherwise or the court so directs. If a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection at that time does not constitute a waiver of the objection.

To preserve for appeal "any claim involving a trial court's decision about whether to propound a voir dire question, a defendant must object to the court's ruling." *Foster v. State*, 247 Md. App. 642, 647 (2020), *cert. denied*, 475 Md. 687 (2021). When a party offers a specific ground for an objection, he waives any other ground for objection and, on appeal, is limited to the ground raised below. *Klauenberg v. State*, 355 Md. 528, 555 (1999).[7]

In the case at bar, Mr. Baldwin's lawyer objected to the "strong feelings" voir dire question propounded by the trial court on the ground that it covered all three charged crimes in a single question. He urged the court to ask three separate "strong feelings" questions, one for each charged offense. At no time did he object on the ground that the "strong feelings" question the court posed was a compound question, i.e., a single question in

[7] The rule that stating a specific ground for an objection waives all other grounds applies to both Rule 4-323(a) (governing objections to the admission of evidence) and Rule 4-323(c) (governing objections to matters other than evidentiary rulings). *Compare Klauenberg*, 355 Md. at 541-42 (interpreting Rule 4-323(a)) *with id.* at 555 (interpreting Rule 4-323(c)).

which the court asked whether a juror had "strong feelings" about the crime charged **and** asked whether, if the juror had "strong feelings," that would affect the juror's ability to hear the case impartially. He made no mention of *Dingle* or of any other Maryland appellate decision expressing disapproval of compound questions during voir dire.

The objection Mr. Baldwin's lawyer made - - that the "strong feelings" question properly should be separated into three questions, one for each crime - - was conceptually distinct from the issue raised on appeal, namely, that the court should have divided the question along a totally different axis, so to speak. The issue Mr. Baldwin presents on appeal is whether the trial court should have divided the question, "Does anyone have strong feelings about these crimes which would affect your ability to sit fairly and impartially?" into two questions: (1) "Does anyone have strong feelings about these crimes?" and (2) "If so, would those feelings affect your ability to sit fairly and impartially?" Mr. Baldwin's lawyer made no such request in below. For that reason, when the trial court ruled on the objection, counsel had not "ma[de] known to the court . . . the objection to the action of the court[,]" Md. Rule 4-323(c), that forms the basis for the appeal: that the court erred by asking a compound "strong feelings" question. Accordingly, that issue was waived for appeal. *Klauenberg*, 355 Md. at 555.

*2. Waiver Based Upon Unqualified Acceptance of the Empaneled Jury*

Maryland law recognizes two categories of voir dire objections, subject to different preservation rules. In *State v. Ablonczy*, 474 Md. 149 (2021), the Maryland Supreme Court explained that one "group of objections goes 'to the inclusion or exclusion of a prospective juror (or jurors) or the entire venire.'" *Id.* at 162 (cleaned up) (quoting *State v. Stringfellow*,

425 Md. 461, 469 (2012)). For that type of objection, "unqualified acceptance of the jury panel waives any prior objections." *Id.* (citing *Stringfellow*, 425 Md. at 469). "The second group of objections, on the other hand, which are 'incidental to the inclusion or exclusion of a prospective juror or the venire, are not waived by accepting a jury panel at the conclusion of the jury-selection process." *Id.* (cleaned up) (quoting *Stringfellow*, 425 Md. at 469). In *Stringfellow*, the Court explained the rationale for this seemingly hyperfine distinction:

> Objections related to the inclusion/exclusion of prospective jurors are treated differently for preservation purposes because accepting the empaneled jury, without qualification or reservation, "is directly inconsistent with the earlier complaint about the jury," which "the party is clearly waiving or abandoning." Objections related indirectly to the inclusion/exclusion of prospective jurors are not deemed likewise inconsistent and are deemed preserved for appellate review. Although the difference between the two categories of objections may appear slight, it is important in light of the waiver implications.

*Stringfellow*, 425 Md. at 470 (cleaned up) (quoting *Gilchrist v. State*, 340 Md. 606, 618 (1995)).

In *Foster*, *supra*, we explained that "*Stringfellow* set forth examples of claims that fit into the two categories." 247 Md. App. at 649. "Among the former, which is waived by unqualified acceptance of the empaneled jury, is a claim, such as the one before the Court in [*Stringfellow*], that the trial court erred in asking a voir dire question requested by the State, thereby biasing the venire members against the defense." *Id.* at 649-50 (citing

*Stringfellow*, 425 Md. at 471).[8] "Among the latter, which is not waived by unqualified acceptance of the empaneled jury, is a claim, such as the one before [the Court in *Foster*], that the trial court erred in refusing to ask a voir dire question requested by the defense." *Id.* at 650 (citing *Stringfellow*, 425 Md. at 470-71).[9]

The issue in the case at bar is not precisely like either of these examples. But it shares a fundamental characteristic with the issue in *Stringfellow*, which was held to be waived by the unqualified acceptance of the empaneled jury. In that case, at the State's request and over defense objection, the trial court posed an objectionable voir dire question, thereby potentially biasing the jury. Here, Mr. Baldwin maintains that, over defense objection, the trial court propounded an objectionable compound voir dire question, thereby potentially biasing the jury (because, as a result, the court and the parties may have been unable to discover that some jurors, who self-evaluated, should have been stricken

[8] Other objections that are "aimed directly at the inclusion/exclusion of a prospective juror or the venire" and thus are waived by the unqualified acceptance of the empaneled jury include: (1) "an objection to a judge's refusal to strike prospective jurors for cause"; (2) "an objection to the exclusion of a juror because of his beliefs about capital punishment"; (3) "a defendant who failed to object to unacceptable venire members after using all of his peremptory strikes"; (4) "an objection to a venire not selected randomly from registered-voter lists"; and (5) "an objection to prejudicial remarks made by the prosecutor in earshot of the venire." *Stringfellow*, 425 Md. at 470 (cleaned up).

[9] Other objections that are "deemed incidental to the inclusion/exclusion of prospective jurors and, therefore, not waived by the objecting party's unqualified acceptance thereafter of the jury panel" include: (1) "an objection to a prior jury panel, where the judge excused that prior jury panel and called a second one from which was selected the jury that convicted the defendant"; (2) "an objection, made during voir dire, to being refused permission to inspect a prosecutor's notes on prospective jury members"; and (3) "an objection to a judge refusing to ask a proposed voir dire question." *Stringfellow*, 425 Md. at 470-71 (cleaned up).

for cause). In both *Stringfellow* and the instant case, the offending question was propounded to the jury, thereby allegedly tainting the jury. It is immaterial whether the offending question was requested by the State (as in *Stringfellow*) or was posed sua sponte by the trial court (as apparently happened in this case).[10] The claim of error here is fundamentally like that in *Stringfellow* and is distinguishable from that in *Foster* and *Ablonczy*, in which trial courts refused to propound a voir dire question requested by the defense (and which was mandatory upon request). We hold that Mr. Baldwin's unqualified acceptance of the empaneled jury waived his claim of voir dire error.

## CONCLUSION

There are two, distinct reasons that the sole issue Mr. Baldwin presents on appeal was waived below. Either reason requires a finding of non-preservation due to waiver. Accordingly, we decline to address the issue Mr. Baldwin raises in this appeal and shall affirm the judgment.

**JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS ASSESSED TO THE APPELLANT.**

[10] The record does not contain written requests for voir dire questions from either party, nor does the transcript indicate whether the State requested the strong feelings question in the form propounded by the trial court.