

Circuit Court for Baltimore City  
Case No. 123090007

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1288

September Term, 2023

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DAUNTE MIDDLETON

v.

STATE OF MARYLAND

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Beachley,  
Albright,  
Woodward, Patrick L.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: October 4, 2024

\*This is a per curiam opinion. Consistent with 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 Baltimore City of possession of cocaine, heroin, and fentanyl with intent to distribute, possession of a firearm under sufficient circumstances to constitute a nexus to a drug trafficking crime, wearing, carrying, or transporting a loaded handgun, and illegal possession of a firearm and ammunition, Daunte Middleton, appellant, presents for our review a single issue: whether the evidence is sufficient to sustain the convictions. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Baltimore Police Detective James Craig, III, who testified that on March 3, 2023, he was assigned to the Police Department’s “Northern District Action Team,” which “focus[es]” on the Northern District “because of the narcotic activity that occurs there.” Detective Craig was driving an unmarked vehicle on Tunbridge Road when he observed Mr. Middleton driving a vehicle and “unrestrained by a safety belt.” The detective notified “a marked unit directly behind [his] unit,” which stopped Mr. Middleton’s vehicle. When Detective Craig “walked up to the car,” he “noticed that there was a strong odor of marijuana coming from inside of” it. Detective Craig asked Mr. Middleton “to roll down the rear window,” and when he complied, the detective saw “[i]n the center console . . . a . . . yellow zip bag . . . used typically for . . . distribution” of “controlled dangerous substances.” Mr. Middleton “was asked out of the driver’s seat,” and “other detectives . . . began a search of the vehicle.” The detectives subsequently discovered “a cross-body backpack” that “contained a handgun.” A detective searched Mr. Middleton’s person and discovered, in his front right pocket, “drugs.”

Detective Craig later “inventoried” the evidence seized from Mr. Middleton and his vehicle, and determined it to be:

- “[G]reen plant-like material, suspected at the time to be marijuana.”
- “[Z]iplock bags . . . containing . . . green plant-like material, suspected at the time to be marijuana.”
- A “white . . . bag containing a white rock-like substance, suspected at the time to be crack cocaine.”
- A “simple sandwich bag.”
- “[G]elatin capsules containing a white, tan powder substance . . . suspected at the time to be either fentanyl or heroin.”
- “[A]nother sandwich bag.”
- “[M]ore . . . gelatin capsules containing a white powder substance . . . suspected at the time to be either heroin or fentanyl.”

Detective Craig specified that the “white rock-like substance” was discovered in “Mr. Middleton’s . . . front left pants pocket.” The detective further specified that “49 gelcaps” were discovered “inside of the book bag that was located in the rear of the vehicle,” that the “book bag” was a “Spiderman backpack,” and that the backpack contained “the gun and [the] bag of capsules.”

Detective Craig was subsequently accepted “as an expert in the field of the packaging and distribution of controlled dangerous substances.” The detective testified that the amount of “loose cocaine,” which “was weighed and found to be 7.6 grams,” is “roughly double the size of [an] entry-level purchase . . . of crack cocaine,” which in the detective’s experience “has been 3.5 grams.” Detective Craig testified that he “suspected” that the cocaine was “for further distribution in . . . vials, or for street-level distribution.” The detective testified that the cocaine could be distributed in “roughly 100” vials, for “roughly \$2,000 . . . in sales.”

The State subsequently called Baltimore City Police Detective John Wallace, who testified that he was one of the detectives that searched Mr. Middleton’s vehicle. Detective Wallace testified that after “seiz[ing] the suspected cannabis off the center console,” he “reached around behind the passenger seat and retrieved [the] Spiderman backpack.” The detective opened the backpack and discovered “more narcotics inside, as well as a handgun.” Detective Wallace testified that the backpack “was behind the passenger seat sitting in the back seat in a child’s seat, a booster seat kind of thing.” The State also presented evidence that the “off-white rock-like substance” was tested and determined to “contain[] cocaine,” and that the “off-white powder” inside the “49 large clear gelcaps” was tested and determined to contain heroin, fentanyl, and “4-ANPP,” which “is produced as a byproduct in the production of fentanyl.”

Mr. Middleton contends that, for two reasons, the evidence was insufficient to sustain the convictions. Mr. Middleton first contends that, for numerous reasons, the “evidence does not support a finding that [he] possessed the items in the backpack.” Conceding that “defense counsel did not argue in her motion for judgment of acquittal that Mr. Middleton did not possess the gun or drugs found in the backpack,” he asks us to “review the issue under the rubric of ineffective assistance of counsel.”

We decline to do so. The Supreme Court of Maryland has stated that “[p]ost-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel . . . omitted to act, and such proceedings allow for fact-finding and the introduction of testimony and evidence directly related to the allegations of the counsel’s ineffectiveness.” *Mosley v. State*, 378 Md. 548,

560 (2003) (citations and footnote omitted). Here, like in *Mosley*, the record does not reveal why defense counsel failed to move for judgment of acquittal on the ground that Mr. Middleton now seeks. A post-conviction proceeding will allow for the introduction of testimony and evidence, and fact-finding, directly related to Mr. Middleton’s contention, and hence, the contention should be addressed in such a proceeding.

Mr. Middleton next contends that the evidence is insufficient to sustain the convictions of possession of cocaine, heroin, and fentanyl with intent to distribute, and possession of a firearm under sufficient circumstances to constitute a nexus to a drug trafficking crime, because for numerous reasons, the “evidence does not support a finding that Mr. Middleton possessed any drugs with the intent to distribute.” We disagree. The State produced evidence that Detective Craig and his “Action Team” police the Northern District “because of the narcotic activity that occurs there.” When Mr. Middleton rolled the rear window of his car down, the detective, who was accepted as an expert in the field of packaging and distribution of controlled dangerous substances, observed a “yellow zip bag” that he knew to be “used typically for” distribution of controlled dangerous substances. Police subsequently discovered, in plain view and within reach of the seat in which Mr. Middleton had been sitting, a backpack containing both the handgun and 49 gelcaps containing heroin and fentanyl. “[W]e have acknowledged a nexus between drug distribution and guns, observing that a person involved in drug distribution is more prone to possess firearms than one not so involved.” *Whiting v. State*, 125 Md. App. 404, 417 (1999) (citations omitted). Detective Craig opined that the cocaine discovered in Mr. Middleton’s pants pocket was “roughly double the size of [an] entry-level purchase” of

crack cocaine, and could be distributed in “roughly 100” vials and sold for “roughly \$2,000.” With respect to the quantity of both the cocaine and gelcaps, we have stated that “the very quantity of narcotics in possession may indicate an intent to distribute.” *Purnell v. State*, 171 Md. App. 582, 612 (2006) (internal citations and quotations omitted). Finally, Detective Craig explicitly opined that the cocaine was “for further distribution in . . . vials, or for street-level distribution.” We conclude that this evidence could convince a rational trier of fact that Mr. Middleton intended to distribute the cocaine, heroin, and fentanyl, and hence, the evidence is sufficient to sustain the convictions of possession of cocaine, heroin, and fentanyl with intent to distribute, and possession of a firearm under sufficient circumstances to constitute a nexus to a drug trafficking crime.

**JUDGMENTS OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**