Circuit Court for Howard County
Case No. C-13-CR-21-000099

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1318

September Term, 2022

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SHAWNDEL A. WEEMS

v.

STATE OF MARYLAND

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Arthur,
Berger,
Eyler, James R.
(Senior Judge, Specially Assigned),

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Opinion by Eyler, J.

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Filed: January 3, 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 Rule 1-104(a)(2)(B).

Appellant, Shawndel A. Weems, was convicted in the Circuit Court for Howard County of second-degree murder and the use of a firearm in the commission of a felony or crime of violence. Appellant presents the following question for our review:

> 1. Did the trial court err in denying Mr. Weems's motion to suppress his statement to police when police were aware that Mr. Weems suffered from paranoia and schizophrenia and was exhibiting symptoms of these mental health issues that day?

Finding no error, we shall affirm.

## I.

Appellant was indicted by the Grand Jury for Howard County on charges of first-degree murder, second-degree murder, and the use of a firearm in the commission of a felony or crime of violence. The jury acquitted appellant of first-degree murder and found appellant guilty of second-degree murder and the use of a firearm in the commission of a felony or crime of violence. The court imposed a term of incarceration of forty years for second-degree murder and twenty years, all but ten suspended, for the use of a firearm in the commission of a felony or crime of violence, to be served consecutively, followed by 5 years probation.

On February 6, 2021, the Howard County Police responded to a shooting in the parking lot of the Monarch Mills Apartment Complex. There, they found the body of Simeon Makuna. They also found a blue Hyundai sedan with bullet holes in the windows. There was an empty handgun magazine next to the car. Witnesses advised officers that the shooter had fled to a nearby apartment. The police also discovered that the blue Hyundai

was registered to that same apartment. Police surrounded the apartment, and appellant came out and surrendered. Appellant was taken back to the police station where he confessed to the shooting. He claimed that he had shot Mr. Makuna because he "felt like it was going to be him or me."

Prior to trial, appellant moved to suppress his confession on grounds that it was not voluntary. Appellant argues that he suffers from paranoia and schizophrenia. He argues that, as a result of these conditions, he was unable to make any voluntary statements at the time of the interview. Detective Ambrose testified that he spoke to several of appellant's family members before the interview. Appellant's cousin told the detective that appellant had been acting abnormally that day. Her boyfriend told the detective that appellant suffered from mental health issues. Appellant's mother told the detective that, in 2014 or 2015, appellant had been hospitalized due to paranoia and schizophrenia. She claimed he had been prescribed medication for these conditions but that he was no longer taking it.

The State also admitted a video of appellant's interrogation at the hearing which the court reviewed. In that video, appellant agreed to answer questions after having his Miranda rights read to him. Throughout the interrogation, the police officer conducting the interrogation asked questions without making any threats or promises. He provided appellant with water and offered him food (which he declined). Appellant was responsive and often provided details in his answers to police questions. The answers he gave fit the questions asked. Appellant described coming home and pulling into his parking spot. He described seeing Mr. Makuna approach him, noticed that Mr. Makuna seemed to have something in his coat, and saw an expression that he interpreted as hostile. He described

opening fire on Mr. Makuna and shooting until Mr. Makuna fell to the ground, then going inside and telling his grandmother that he thought he had killed someone.

After reviewing the video, the court made factual findings. The court found that the interrogation was neither overly long nor overly hostile. The police approached appellant in a friendly, non-threatening manner. The court also found that appellant was mentally capable of confessing at the time. He was capable of understanding what was asked of him. "His responses were appropriate and did not indicate that he was in any way delusional." The court continued:

> The only, you know, the only thing really is reflective of a potential for him, you know, whether or not the circumstances at the scene were sufficient to, you know, cause someone to respond in the way that he apparently did. In this day and age it's, I can't say that his assessment of his circumstances was completely delusional.

The court also noted that appellant became nervous, upset, and remorseful at the end of the interrogation, but found that those emotions were appropriate to the confession appellant was making. The court concluded that the confession was made after a valid Miranda waiver and was voluntary. The court denied appellant's suppression motion.

At trial, the State presented as witnesses neighbors who had heard the shooting, but no eyewitnesses to the shooting itself. The State also presented Detective Ambrose who testified to the police's investigation and presented the video of his interrogation of appellant. The video was admitted into evidence and played in open court. Appellant testified in his own defense and argued self-defense. He testified that Mr. Makuna had approached him with a gun and that he was scared Mr. Makuna was going to shoot him.

The jury found appellant guilty of second-degree murder and the use of a firearm in the commission of a felony or crime of violence. The court sentenced appellant as described above, and this timely appeal followed.

II.

Appellant argues that his confession to the police should have been suppressed on the grounds that it was not voluntary. In considering whether a confession is voluntary, appellant notes that the court must take into account whether appellant was mentally capable of making a confession. If a suspect is so mentally impaired that he does not understand what he is saying, he may not be capable of making a voluntary confession. Appellant argues that the trial judge acknowledged some mental impairment on the part of appellant and that requires a finding of involuntariness as a matter of law.

Appellant further argues that the police's friendly approach during the interrogation was coercive. Appellant points us to out-of-state authority suggesting that otherwise acceptable police tactics may be coercive in the context of a mentally impaired suspect. In some cases, courts have found that a police technique known as the "false friend technique" may be coercive in the context of a mentally impaired suspect. On this basis, appellant argues that the circuit court's finding that the police were friendly cuts in favor of suppression.

The State notes that a statement is not necessarily involuntary simply because the suspect suffers from mental health issues. Instead, the circuit court applied the correct standard: whether appellant understood what he was saying during the police interview. The State relies on the court's finding that appellant did understand what he was saying

and was not delusional. As a result of this factual finding, to which we must give great deference, the State argues that we must find that the confession was voluntary. As for the coercive tactics referenced by the out-of-state authority cited by appellant, the State notes that mere friendliness and mental health issues have never alone been enough to require a court to suppress a statement provided that the suspect was able to understand what was happening and that no other coercive tactics were used.

III.

When reviewing a circuit court's determination that a statement was voluntary, we give great deference to the hearing court's findings of fact and credibility unless those findings are clearly erroneous. *Daniels v. State*, 172 Md. App. 75, 87 (2006). We review the application of those factual findings to the law *de novo*. *Brown v. State*, 252 Md. App. 197, 234 (2021). In doing so, we review the evidence and any inferences that may be drawn from that evidence in the light most favorable to the prevailing party, in this case, the State. *Davis v. State*, 426 Md. 211, 219 (2012).

Under Maryland law, a confession must be freely and voluntarily made in order to be admitted in court. *Hoey v. State*, 311 Md. 473, 480-81 (1988). Appellant must have known and understood what he was saying. *Id.* at 481. The law takes into account the possibility that a defendant may not be mentally capable of reaching that standard. *Id.* However, the mere fact of a mental health issue, even a serious one, does not preclude an individual from making a voluntary confession. *Id.*

A defendant may suffer from conditions that cause hallucinations, psychosis, or incoherency and still make a voluntary confession, provided that he is lucid and

understands what he is saying at the time of the confession. *Id.* at 482. For example, in *McCleary v. State*, 122 Md. 394, 401-02 (1914) the court declined to suppress the confession of a defendant who had been hallucinating corpses, wild beasts, and monsters in the days leading up to the confession and who became "incoherent" the day after the confession because he was described as being "not irrational" at the time of the confession. In *Wiggins v. State*, 235 Md. 97, 101 (1964) the court admitted the confession of a defendant because "his speech was plain" and "he appeared rational and coherent" at the time of the interview despite the fact that the defendant began to hallucinate rabbits and "angel hairs" the very next day.

Even if the suspect is suffering from mental impairment when he makes the confession, the confession is voluntary provided that the maker is not "so mentally impaired that he does not know or understand what he is saying" at the time of his confession. *Buck v. State*, 181 Md. App. 585, 637 (2008). Thus, even a defendant who is behaving strangely or erratically may make a voluntary confession provided that he is able to understand what he is saying and give appropriate answers to the questions he is asked. *Id.* at 638. Even where a court is certain that the defendant is suffering from some sort of mental impairment during the confession, that confession need not be suppressed if it meets the above standard. *Hof v. State*, 337 Md. 581, 620 (1995).

We begin by addressing appellant's claim that the court found that appellant suffered from some mental impairment and that required the court to suppress the confession. Appellant presented evidence that, in the past, he had been diagnosed with schizophrenia and paranoia and had been acting strangely or erratically earlier that day.

But such conditions and behavior do not preclude him from making a voluntary confession. *Buck*, 181 Md. App. at 637-39.

Appellant points to the court's comment on appellant's reaction at the scene of the crime, noting that appellant was not "completely delusional," and the court's statement that appellant became nervous, upset, and remorseful at the end of the interview. A finding that appellant had behaved irrationally at the scene of the crime in deciding to shoot Mr. Makuna is not a finding that tends to negate voluntariness at the time of the confession any more than findings that the suspect had been hallucinating earlier in the day. *McCleary*, 122 Md. at 401-02. Moreover, nervousness and remorse do not indicate delusion. As the court pointed out in the very next sentence, they were, in fact, appropriate emotions for someone who had just confessed to shooting a man. Even if they had been inappropriate emotions indicative of mental impairment, they would not negate voluntariness unless they were so irrational as to indicate that appellant did not know what he was saying. *Hof*, 337 Md. at 620. Here they are not so irrational.

We concur with the State that, if we credit the court's factual findings, we must conclude that any mental impairment appellant may have suffered did not negate voluntariness. The court found that

> It does strike me that the factors I've outlined and the observation of the Defendant during the course of the interview leave me with the conclusion that he was mentally capable of confession. He did understand what he was saying. His responses were appropriate and did not indicate that he was in any way delusional.

If it is true, as the court found, that appellant understood what he was saying, then the standard from *Buck* is met. *Buck*, 181 Md. App. at 637.

We, therefore, must review the trial court's finding that appellant understood what he was saying and was not delusional at the time of the confession for clear error. The transcript of appellant's interview with the police demonstrates that appellant was able to give responsive answers to police questions. When asked about specific locations, he was able to give clear directions. He was able to give detailed descriptions of what happened in the lead-up to the shooting that evening, how he was feeling, and why he did what he did. He was able to describe what he did after the shooting, where he went, whom he talked to, and how he felt then. He was able to clearly delineate his reasons for purchasing a gun (including enumerating thise reasons). At the end of the interview, he understood his circumstances well enough to inquire how long a potential jail sentence for his actions might be. Crediting the court's factual findings, therefore, we conclude that appellant was not so mentally impaired that he did not know or understand what he was saying. Appellant was mentally capable of giving a voluntary confession at the time of the interview. *Id.*

Finally, we address appellant's claim that police tactics which might not otherwise merit suppression were unduly coercive in this case because of appellant's mental condition. Appellant relies, primarily for this assertion, on *Utah v. Rettenberger*, 984 P.2d 1009, 1016-17 (Utah 1999), where the court considered a police tactic called the "false friend technique." The court indicated that "we do not hold that the use of the false friend technique in police interrogations is, standing alone, sufficiently coercive to produce an

involuntary confession." *Id.* at 1017. But the court went on to hold that the defendant's mental disability made him particularly suggestive of the coercive tactics. *Id.*

While the name of the "false friend technique" may bear a passing resemblance to the court's finding in this case that the interview was "somewhat of a friendly experience," the name is where the similarities stop. The technique used in *Rettenberger*, was not merely one of police officers being cordial or even kind to the suspect. Rather, the officers convinced the suspect that they were his friends and would only advise him to confess if it was in his best interests. *Id.* at 1016. They did so in the context of numerous other lies about evidence the police had against the suspect (e.g., telling him that they had eyewitnesses, telling him they had fingerprint, blood stain, and ballistics evidence against him, and telling him he had been the subject of an extensive undercover investigation) and threats that he would receive the death penalty if he did not confess in the face of all this evidence. *I d.* at 1015-1018. We do not read *Rettenberger* as standing for the proposition that being friendly to a mentally ill suspect is inherently coercive; it stands for the proposition that claiming the police are acting as friends and trying to save the suspect from a death penalty that would ensue if the suspect did not confess could be coercive.

Here, the court found no such coercive behavior that could be exacerbated by appellant's mental health issues. The interrogation was relatively short. It was conducted with a single officer. The officer made no threats and did not assert that the police had evidence against appellant that the police did not have. He declined to speculate about the potential length of appellant's jail sentence. He provided appellant with water and offered him food. In this context, we find no coercion. The confession was voluntary.

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