Circuit Court for Montgomery County
Case No. 138375C

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1837

September Term, 2023

SANA JARJU

v.

STATE OF MARYLAND

Wells, C.J.,
Ripken,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: March 20, 2025

*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 Sana Jarju was tried before a jury in the Circuit Court for Montgomery County and was found guilty of sexual abuse of a minor and two counts of third-degree sexual offense. The court sentenced Appellant to an aggregate of forty years' incarceration, with all but ten years suspended, in addition to five years' supervised probation. Appellant filed this timely appeal, seeking review of the following issue:

> Whether the circuit court abused its discretion in declining to propound two of Appellant's proposed voir dire questions to the prospective jury panel.[1]

For the reasons to follow, we shall affirm the judgments of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In April of 2021, Appellant was indicted for several offenses against his girlfriend's then-eight-year-old son, M.[2] At trial, the State elicited evidence that Appellant perpetrated sexually assaultive acts against M. The evidence describing the acts was elicited from M.'s testimony and from a video of M.'s forensic interview which was admitted into evidence and played for the jury. The State further elicited evidence of Appellant's police interview,[3] in which Appellant initially made multiple false statements to police regarding his identity,

[1] Rephrased from:

> Did the court abuse its discretion in failing to propound voir dire questions requested by the defense aimed at identifying jurors with disqualifying biases?

[2] To protect the privacy of the minor victim in this case, we refer to the child using the randomly selected letter "M."

[3] The recording of Appellant's police interview was admitted into evidence and played for the jury. The jury also heard testimony from the forensic interviewer who conducted M.'s interview; M.'s father; and the police officer who conducted the interview of Appellant.

date of birth, marital status, and place of work, before Appellant denied that he had performed any sexually assaultive acts.

Appellant elected to testify in his defense and denied that the events described by M. took place.

The jury found Appellant guilty of the count of sexual abuse of a minor (Count I), and two counts of third-degree sexual offense (Counts II and III). The court sentenced Appellant to an aggregate of forty years' incarceration, with all but ten years suspended, in addition to five years' supervised probation.[4]

Additional facts will be incorporated as they become relevant to the issues.

DISCUSSION

A. Additional Facts

In preparation for voir dire, Appellant submitted a series of proposed questions to the circuit court. The circuit court's denial of two of these questions is the sole issue before this Court.

The first of the two proposed questions—Question 23—stated the following:

> Is there any member of the prospective jury panel who believes that when there is an accusation of sexual abuse, it is better to convict a person who is possibly innocent, than to acquit a person who is possibly guilty?

[4] For Count I, Appellant was sentenced to twenty years' incarceration with ten years suspended, in addition to five years of supervised probation, requirements to submit to evaluation, attend counseling for psychological treatment, register as a sex offender, and comply with routine monitoring. For Count II, Appellant received a suspended ten-year sentence, which was to run consecutive to Count I. For Count III, Appellant received another suspended ten-year sentence, which was to run consecutive to Counts I and II. Appellant received credit for the 687 days he had already served.

The court declined to propound Question 23 without explanation. Appellant's counsel made a general objection without explaining further why this question was needed or was not otherwise covered.

While propounding questions to the prospective jury panel, the court provided a brief statement of the nature of the case, including several sentences concerning the nature of the charges.[5] The court asked a variety of other voir dire questions, including whether any prospective juror: would be unable to base a verdict solely on the law and evidence in the case; had already formed an opinion concerning Appellant's guilt or innocence based on what they had already been told about the case; would be inclined to believe a witness based upon whether the prosecution or the defense called the witness; could not sit as a fair and impartial juror because of the nature of the charges; or had strong feelings regarding third-degree sexual offense and sexual abuse of a minor.

The court also provided the following statements regarding the presumption of innocence and the State's burden of proof:

> [Appellant] is presumed innocent of the charges. Does anyone disagree with that statement of law?
>
> * * *
>
> The State is required to prove a defendant's guilt beyond a reasonable doubt, and [the court will] read you an instruction on that at the end of the case. Does anyone disagree with that statement of law?

No juror responded to either of those two inquiries.

[5] The court stated the following: "The State alleges in this case that [Appellant] sexually abused his girlfriend's son, . . . who was approximately, I believe [ten] years old . . . . [b]y touching [M.]'s genital area and placing [M.]'s hands on [Appellant's] genital area."

The second of the proposed questions—Question 24—stated the following:

> Is there any member of the prospective jury panel who is more likely to believe an accusation of sexual abuse if the alleged perpetrator is a man?

The court declined to propound Question 24. In clarifying the justification for including Question 24, Appellant argued that the question was intended to determine whether a juror would be more likely to believe a man had committed a sexual offense as opposed to a woman. The court nonetheless declined to propound the question. Appellant later made a general objection to Question 24's exclusion.

The court asked a variety of other voir dire questions, including whether any member of the prospective jury panel would hold a bias against Appellant because of his ethnicity or gender.

B. Party Contentions

Appellant argues that the court abused its discretion in declining to propound Question 23 and Question 24. He argues that both the questions were directed toward specific causes for disqualification, and therefore the circuit court was required to propound the questions. Appellant argues that because the proposed questions would have "assist[ed] the trial court in uncovering bias related to the crime, the witnesses, or the defendant[,]" the circuit court's failure to do so was an abuse of discretion.

The State asserts that the court did not abuse its discretion in declining to propound the questions. It asserts that neither question was mandatory and that both questions were covered by other voir dire questions. The State contends that in addition to not being mandatory, Question 23 was prohibited under *Stewart v. State*, 399 Md. 146 (2007).

C. Analysis

Decisions of a trial court made during voir dire "are generally reviewed under an abuse of discretion standard." *Lewis v. State*, 262 Md. App. 251, 278 (2024) (citing *Thomas v. State*, 454 Md. 495, 504 (2017)). When appellate courts apply the abuse of discretion standard in this context, they look to "whether the questions posed and the procedures employed have created a reasonable assurance that prejudice would be discovered if present." *Id.* (quoting *Washington v. State*, 425 Md. 306, 313 (2012)). In making this determination, the reviewing court "looks at the record as a whole to determine whether the matter has been fairly covered." *Id.* (quoting *Washington*, 425 Md. at 313–14).

Maryland currently employs "'limited voir dire,' meaning that the sole purpose of voir dire in Maryland 'is to ensure a fair and impartial jury by determining the existence of specific cause for disqualification.'" *Mitchell v. State*, 488 Md. 1, 16 (2024) (quoting *Pearson v. State*, 437 Md. 350, 356 (2014)). While a trial court "must ask a voir dire question upon request if it is 'reasonably likely to reveal specific cause for disqualification[,]'"[6] a trial court "need not ask a voir dire question" that is not directed at a specific cause for disqualification or is intended to merely "fish[]" for information to aid in the exercise of peremptory challenges. *Id.* at 16 (quoting *Pearson*, 437 Md. at 357).[7]

[6] *Mitchell*, 488 Md. at 17 (quoting *Kazadi v. State*, 467 Md. 1, 44–45 (2020)).

[7] A trial court does not abuse its discretion by propounding non-mandatory voir dire questions. *Moore v. State*, 412 Md. 635, 644 (2010) ("In the absence of a statute or rule prescribing the questions to be asked of the venirepersons during the examination, 'the subject is left largely to the sound discretion of the court in each particular case.'") (quoting *Corens v. State*, 185 Md. 561, 564 (1946)).

Although voir dire is primarily left within the discretion of the trial court, the court "must adapt the questions to the particular circumstance[s] or facts of the case" to further the goal of obtaining impartial and unbiased jurors. *Washington*, 425 Md. at 319 (quoting *Moore v. State*, 412 Md. 635, 645 (2010)).

Two categories of specific cause for juror disqualification are: first, if a statute disqualifies a prospective juror; or second, if a collateral matter is "reasonably liable to have undue influence over a prospective juror." *Pearson*, 437 Md. at 357 (internal citation and quotation marks omitted). When determining whether a question fits within the second category, courts are concerned with "biases directly related to the crime, the witnesses, or the defendant[.]" *Id.* (quoting *Washington*, 425 Md. at 313). Therefore, proposed questions that would assist a trial court in uncovering bias directly related to the crime, the witnesses, or the defendant must be asked. If a response to a requested voir dire question would not further the goal of voir dire in uncovering bias among prospective jurors, it need not be asked, and the court does not abuse its discretion in declining to do so. *Moore*, 412 Md. at 662.

i. Question 23

With respect to the first question at issue, Question 23, Appellant contends that the question was a required bias question because it concerned whether jurors would follow presumption of innocence and burden of proof instructions in a child sexual abuse case. From our reading of the brief, Appellant's argument is that Question 23 therefore concerns bias related to the crime.

In making this argument, Appellant relies upon—and attempts to distinguish—the Supreme Court of Maryland's analysis of a similar question in *Stewart v. State*, 399 Md. 146 (2007), *abrogated in part by Mitchell v. State*, 488 Md. 1, 9 (2024). In *Stewart*, a criminal defendant charged with child sexual abuse requested several voir dire questions, including one that Appellant acknowledges is similar to Question 23.[8] *See* 399 Md. at 151–57. When analyzing this question, the Court affirmed the trial court's refusal to propound the question, which it held was "a vague inquiry as to an unstated burden of proof and a reference to the presumption of innocence, which can never be 'higher or lower.'" *Id.* at 166, 168. Attempting to distinguish *Stewart*, Appellant argues that his proposed question was intended to discern whether any jurors would deviate from the presumption of innocence and burden of proof out of fear that other children could be harmed.[9] Appellant

[8] The proposed question in *Stewart* was: "Does anyone feel that the presumption of innocence or burden of proof should be higher or lower because this is a case involving child sexual abuse (or rape)?" 399 Md. at 155.

[9] Appellant also questions the "continued viability" of *Stewart*, and invites this Court to overrule the case to the extent *Stewart* is controlling over Question 23. We decline Appellant's invitation. *Stewart*'s general applicability has been narrowed twice by the Supreme Court. The first instance was in *Kazadi v. State*, 467 Md. 1 (2020), where the Court departed from prior precedent and held that voir dire questions concerning jurors' willingness and ability to comply with jury instructions on "the presumption of innocence, the burden of proof, and the defendant's right not to testify" were mandatory upon request. 467 Md. at 48. The second instance was in *Mitchell v. State*, 488 Md. 1 (2024). In *Mitchell*, the Court abrogated *Stewart* to the extent *Stewart* held that "a circuit court is not required to ask questions designed to uncover prejudgment of credibility with respect to statuses, categories, occupations, and affiliations of witnesses that were not already identified in case law[.]" 488 Md. at 21. In reaching this decision, the Court reasoned that the holding in *Stewart* "has been superseded by significant changes in the law[.]" *Id.* Neither *Kazadi* nor *Mitchell* addressed *Stewart*'s other holdings or its disposition on the question identified in note 8 *supra*. Accordingly, the Supreme Court's reasoning that has not been abrogated

argues that even though the question in *Stewart* was disapproved in that case, it, or something similar, could still be required depending on the case specifics.

We do not agree with Appellant's characterization of Question 23. On its face, Question 23 did not relate to biases concerning the witnesses or the defendant. It also did not relate to biases surrounding the crime. The question as proposed asked about beliefs surrounding the State's burden of proof and the presumption of innocence "when there is an accusation of sexual abuse[.]" Although the question refers to "an accusation of sexual abuse" in general, it does not relate to the specific crimes charged here. Further, while Appellant has argued to this Court that the intent behind Question 23 was to discover juror bias related to child sexual abuse, the question posed refers neither to a "child" nor to a "minor." Voir dire questions concerning bias are only mandatory if they are concerned with "biases *directly* related to the crime, the witnesses, or the defendant." *Pearson*, 437 Md. at 357 (emphasis added) (internal citation and quotation marks omitted). Because a response to Question 23 would not further the goal of uncovering bias *directly* related to the crime, the witnesses, or Appellant, it was not a required question. *See Moore*, 412 Md. at 662.

Even if we were to accept that Question 23 concerned bias related to the crime, the circuit court did not abuse its discretion in declining to propound the question because the scope of the question was "fairly covered" by other voir dire questions propounded by the trial court. *See Lewis*, 262 Md. App. at 287. At the beginning of voir dire, the court provided a brief summary of the allegations. From the commencement of voir dire, the jury was

by other case law remains binding on this Court, and we are not free to disregard *Stewart*. *See Johns Hopkins Hosp. v. Correia*, 174 Md. App. 359, 382 (2007).

aware that the case involved allegations of child sexual abuse. After the panel had been made aware of the charges, the court asked the panel if any member of the panel would be unable to base a verdict solely on the law and evidence in the case; had already formed an opinion concerning Appellant's guilt or innocence based on what they had been told about the case; would be inclined to believe a witness based upon which side called that witness; could not sit as a fair and impartial juror because of the nature of the charges; be influenced by thoughts of possible punishment; or had strong feelings regarding third-degree sexual offense and sexual abuse of a minor.

The court informed the jurors that Appellant was presumed innocent of the charges and inquired whether any member of the panel disagreed with that statement of law. The court informed the potential jurors that the State bore the burden to prove a defendant's guilt beyond a reasonable doubt, and inquired whether any member of the panel disagreed with that statement of law.[10]

[10] Appellant also takes issue with these two questions—acknowledged by Appellant to be versions of *Kazadi* questions—contending that the questions "were not asked properly" because the court asked the prospective jurors if they "disagreed" with each statement of law rather than if they were "unwilling or unable" to comply with jury instructions on those topics. We disagree with Appellant for several reasons. As an initial matter, the Supreme Court of Maryland held in *Kazadi* that "[a] trial court is not required to use any particular language" when complying with a request to pose a voir dire question concerning ability to comply with instructions on the presumption of innocence and burden of proof. 467 Md. at 47. Further, Appellant raised no objection to the phrasing of these questions in the trial court. Moreover, the court's presentation of these two questions (i.e., "[d]oes anyone disagree with that statement of law?") mirrored the phrasing presented by Appellant in his proposed jury instructions (i.e., "[i]s there any member of the prospective jury panel who does not agree . . . .").

Examining the record as a whole, we conclude the trial court's voir dire questioning "fairly covered" the matters that Appellant claims he intended to elicit from Question 23. *See Lewis*, 262 Md. App. at 254; *see also Mitchell*, 488 Md. at 28 ("[t]he court need not ordinarily ask a particular requested question if the matter is fairly covered by the questions the court puts to the prospective jurors.").

Appellant argues that the other questions regarding reasonable doubt and the presumption of innocence did not cover the content of the requested question because Appellant intended to elicit from Question 23 whether

> someone who is ordinarily willing and able to presume that a defendant is innocent and follow the court's instructions [regarding the State's burden of proof] might not be able to do that in a child sex abuse case for fear that another child . . . will be abused in the future if a defendant who is possibly or probably guilty—but the evidence does not establish his guilt[] beyond a reasonable doubt—is not convicted and [is] permitted to remain in the community.

While that may be what Appellant intended to elicit, the question as phrased does not reflect that intention. The question, similar to the question disapproved of in *Stewart*, poses a convoluted query with a vague allusion to the burden of proof and presumption of innocence in the context of sexual abuse. 399 Md. at 166. It does not mention fear of future abuse. Nor does it mention the word "child" in any form.

Question 23 was not a required question directly relating to biases surrounding the crime, the witnesses, or the defendant. Even if the question could be interpreted as relating to biases surrounding the crime, the circuit court did not abuse its discretion in declining to pose the question, as the topics contained within the question were fairly covered by the

remainder of the voir dire process. The circuit court therefore did not abuse its discretion in declining to propound Question 23.

ii. Question 24

With respect to the second question at issue, Question 24, Appellant contends that the question was a required bias question related to the defendant because it concerned Appellant's "status as a man charged with a sex crime" and therefore the prospective jurors' ability to be fair and impartial. From our reading of his brief, Appellant's argument is that Question 24 therefore concerns bias related to the defendant. Appellant also argues that the question concerns bias related to a witness. He argues that in the wake of certain social movements and the resulting "exposure of sexual abuses overwhelmingly committed by men," many jurors could hold "preconceived notions about witnesses in a child sexual abuse case."

Assuming without deciding that "a man charged with a sex crime" is a status, we do not agree that the circuit court abused its discretion in declining to propound Question 24 because the trial court's voir dire questioning "fairly covered" the matters that Appellant now claims he intended to elicit from Question 24. *See Lewis*, 262 Md. App. at 287; *see also Mitchell*, 488 Md. at 28 ("The court need not ordinarily ask a particular requested question if the matter is fairly covered by the questions the court puts to the prospective jurors.").

As explained above, at the commencement of the voir dire process, the court provided a brief summary of the allegations in the case, ensuring the jurors were aware that the case concerned allegations of child sexual abuse. The court asked a variety of voir dire

questions, including whether any member of the prospective jury panel: would be unable to base a verdict solely on the law and evidence in the case; had already formed an opinion concerning Appellant's guilt or innocence based on what they had already been told about the case; would be inclined to believe a witness based upon which side called that witness; could not sit as a fair and impartial juror because of the nature of the charges; or had strong feelings regarding third-degree sexual offense and sexual abuse of a minor. The court also asked whether any member of the prospective jury panel would hold a bias against Appellant because of his gender.

Assuming without deciding that Question 24 was a required question concerning biases directly relating to the defendant or the witnesses, the circuit court did not abuse its discretion in declining to pose the question, as the topics contained within the question were fairly covered by the remainder of the voir dire process. The circuit court therefore did not abuse its discretion in declining to propound Question 24.

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