Circuit Court for Saint Mary's County
Case No. C-18-CR-23-000141

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2126

September Term, 2023

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EVELYN SILVIANNE TAYLOR

v.

STATE OF MARYLAND

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

JJ.

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Opinion by Wells, C.J.

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Filed: February 14, 2025

*This is an unreported opinion. It 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 Evelyn Taylor was tried without a jury in the Circuit Court for Saint Mary's County. The court found her guilty of disorderly conduct and sentenced her to time served. Before this Court, Taylor challenges her waiver of a jury trial and the sufficiency of the evidence. For the reasons discussed below, we affirm.

## DISCUSSION

Because this appeal focuses on two discreet issues, we discuss the facts associated with each issue separately.

### A. Taylor's Jury Trial Waiver Met Constitutionally Prescribed Standards.

As to the first allegation of error, the validity of the jury trial waiver, we reprint, in its entirety, the waiver colloquy between the court, Taylor, her attorney, and the prosecutor.

> THE COURT: So, the status conference was set today so that we can establish whether it's a bench trial or whether it's a jury trial. There are open pretrial motions which need to be resolved. I need to let you know, if it is a jury trial, what voir dire questions I'm going to give and what voir dire questions I'm not going to give so that you are prepared to make a record at the appropriate time. Okay?
>
> [STATE'S ATTORNEY]: Okay.
>
> THE COURT: So that's what we're doing now.
>
> [DEFENSE COUNSEL]: Understood.
>
> THE COURT: All right. So, I guess we need to know how we're going to proceed tomorrow first.
>
> [DEFENSE ATTORNEY]: Understood, Your Honor.
>
> THE COURT: Have you had an opportunity to speak to Ms. Taylor.

[DEFENSE ATTORNEY]: Yes, Your Honor. And it's our understanding now that we would like to ask for a bench trial before Your Honor and waive (indiscernible at 3:05:54 16 p.m.).

THE COURT: All right. Ms. Taylor, could you stand, please.

MS. TAYLOR: Yes.

THE COURT: And would you qualify her request for a bench trial? I need to be assured that she understands what a jury trial is and that she understands she's giving up to -- her right to have a jury trial.

[DEFENSE ATTORNEY]: Understood, Your Honor. Ms. Taylor, you understand that you have a right to a jury trial in this case, correct?

MS. TAYLOR: Yes.

[DEFENSE ATTORNEY]: And a jury trial would be 12 citizens from the St. Mary's County that we would be able to voir dire, ask questions of, and place in that box and would be able to render -- they would be the ones to hear and be factfinders in the case. Do you understand that?

MS. TAYLOR: I understand that.

[DEFENSE ATTORNEY]: Do you understand at this moment that you are waiving that right to have those 12 jurors to be the factfinders in the case and actually asking to have this trial before Your Honor, making her the factfinder?

MS. TAYLOR: I'm going by your suggestion.

[DEFENSE ATTORNEY]: You have to do this.

MS. TAYLOR: And I'm putting my trust in that. The judge felt that I should have an attorney to help me, and I believe she's right. So, I'm agreeing –

THE COURT: Ms. Taylor, let me ask you this question: In your own words, can you tell me what a jury trial is?

MS. TAYLOR: Well, a jury trial is 12 peers of my own that come in here, and then I voir dire, whatever, ask questions to make sure that they are not –

THE COURT: Right. I'm not going to let the lawyers ask questions. I'm going to do all the questioning. They take too long.

MS. TAYLOR: And then, therefore, if I'm satisfied with their answer and their positions and everything and after the attorney also agrees with that and the judge goes along with our picking –

THE COURT: Well, that's almost perfect. But I will –

MS. TAYLOR: Let me rephrase the judge part, then.

THE COURT: Right. I won't have any -- I mean, after we strike for cause, if there's some reason we don't believe a juror could be fair –

MS. TAYLOR: Right.

THE COURT: -- I would eliminate that juror.

MS. TAYLOR: Right.

THE COURT: But then I have nothing to do with –

MS. TAYLOR: No, that's –

THE COURT: -- the four strikes –

MS. TAYLOR: But that's what I meant.

THE COURT: -- that you get –

MS. TAYLOR: I put the cart –

THE COURT: -- and the four strikes of [STATE'S ATTORNEY].

MS. TAYLOR: I put the cart before the horse.

THE COURT: Okay.

MS. TAYLOR: If we have questions to where possibly we may need your input or not, we can ask for that.

THE COURT: Yes. Well, I'll -- I'm going to ask a lot of questions but -- and they don't even need to ask my input. I'm going to ask them. Then they're going to have to make decisions based on the answers, though. You're absolutely correct about that. But you understand that when you give up your right to have a jury trial, and if you understand what it is, you have the right to do that, then it's done. I mean, if you waive or give up your right to a jury trial, then we'll start a bench trial tomorrow morning at nine o'clock. You grimaced. Is that –

MS. TAYLOR: They put me on this new medicine. And my witness, she has problems, and I have to pick her up. And this medicine is really causing me, like, problems in the morning.

THE COURT: What time -- do you think 9:30 would be a better time?

MS. TAYLOR: 10:00, my attorney said 10:00 –

THE COURT: 10:00?

MS. TAYLOR: -- is what he had it –

[STATE'S ATTORNEY]: I'll reset it.

THE COURT: 10:00. Do you-all –

MS. TAYLOR: -- scheduled for.

THE COURT: Mr. [STATE'S ATTORNEY], do you-all –

[STATE'S ATTORNEY]: That is -- oh, I'm sorry. I cut you off.

THE COURT: Is that the standard time St. Mary's County starts?

[STATE'S ATTORNEY]: I think it's -- standard is 9:00, but this was set for 10:00. That's what –

THE COURT: Okay. All right.

[STATE'S ATTORNEY]: -- I have on the docket.

THE COURT: That's fine. Ten o'clock is fine with me. I mean –

> [DEFENSE ATTORNEY]: Thank you.
>
> [STATE'S ATTORNEY]: Thank you.
>
> THE COURT: I have no -- so we'll start at 10:00 then, not at 9:00. Okay. Since it's a bench trial, we have a little more flexibility. If it was a jury trial, the jurors have got -- get here at eight o'clock, I understand. So, they're not going to be too happy about starting at 10:00. But I -- that's fine with me. I know the way now down the highway.

Taylor argues the waiver colloquy was constitutionally insufficient. In other words, she is not alleging a violation of Rule 4-246(b), which prescribes the method for the trial court to assess a defendant's waiver of a jury trial, discussed below. Instead, she argues that the discussion between Taylor and the court did not reveal whether Taylor understood she had a constitutional right to a jury trial and her relinquishment of this right was knowing and voluntary. The State argues the court was not required to engage in any particular verbal inquiry with Taylor to determine a valid jury trial waiver. The circumstances presented at the hearing show that such a relinquishment is knowing and voluntary.

Before discussing the constitutional parameters of a valid jury trial waiver, we first briefly discuss Rule 4-246(b), which states:

> A defendant may waive the right to a trial by jury at any time before the commencement of trial. The court may not accept the waiver until, after an examination of the defendant on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant, or any combination thereof, the court determines and announces on the record that the waiver is made knowingly and voluntarily.

There does not seem to be any dispute that the court failed to comply with this Rule's requirements.

But, importantly, to challenge a trial court's failure to comply with Rule 4-246(b) on appeal, the defendant must have raised a contemporaneous objection with the court. Failure to do so will render any deficiencies unreviewable on appeal. *Nalls v. State*, 437 Md. 674, 693 (2014) (the appellate courts will "review the issue of a trial judge's compliance with Rule 4-246(b) provided a contemporaneous objection is raised in the trial court to preserve the issue for appellate review"); *accord Spence v. State*, 444 Md. 1, 14–15 (2015) ("We made it perfectly clear in *Nalls* that a claimed failure of the court to adhere strictly with the requirements of Rule 4-246(b) requires a contemporaneous objection in order to be challenged on appeal."); *Meredith v. State*, 217 Md. App. 669, 674, *cert. denied* 440 Md. 226 (2014) (*Nalls* made it "loud and clear that a contemporaneous objection in the trial court is a necessary predicate for appellate review" of a "trial court's compliance with Rule 4–246(b)"). As Taylor raised no objection under Rule 4-246(b), her only challenge can be as to the constitutional validity of the jury trial waiver.

A criminal defendant's right to a jury trial is a fundamental one under both the United States and Maryland Constitutions. *See* U.S. Const. amends. VI, XIV § 1; Md. Const. Decl. of Rts. arts. 5, 21, 24; *see also Duncan v. Louisiana*, 391 U.S. 145, 154 (1968). In *Valonis & Tyler v. State*, the Supreme Court of Maryland explained:

> In Maryland, a defendant's right to waive a trial by jury may be exercised only by the defendant. Such a waiver is valid and effective only if made on the record in open court and if the trial judge determines, after an examination of the defendant on the record and in open court, that it was made "knowingly and voluntarily." This factual determination is circumstance-specific and has two equally important components: the waiver must be both "knowing" and "voluntary."

431 Md. 551, 560–61 (2013) (internal citations omitted).

Unlike a claim that the procedure in Rule 4-246(b) was not followed, an allegation that the waiver of the right to a jury trial did not meet constitutional muster does not require an objection to preserve it for appellate review. *Biddle v. State*, 40 Md. App. 399, 407 (1978) (rejecting State's preservation argument in the context of a jury trial waiver because "[a] waiver of a constitutional right must appear affirmatively in the record"); *accord Robinson v. State*, 410 Md. 91, 107 (2009) (right to a jury trial is "absolute and can only be foregone by the defendant's affirmative 'intelligent and knowing' waiver"); *McElroy v. State*, 329 Md. 136, 140 n.1 (1993) (fundamental constitutional rights requiring an intelligent and knowing waiver include the right to a trial by jury).

Accordingly, a constitutionally valid waiver of the right to a jury trial must be knowing and voluntary; it must be "'an intentional relinquishment or abandonment of a known right or privilege.'" *Aguilera v. State*, 193 Md. App. 426, 431 (2010) (quoting *Walker v. State*, 406 Md. 369, 378 (2008)). There is no "'fixed incantation'" required, but the court must "satisfy itself that ... the defendant has some knowledge of the jury trial right before being allowed to waive it." *State v. Hall*, 321 Md. 178, 182–83 (1990) (quoting and citing *Martinez v. State*, 309 Md. 124, 134 (1987)). "Whether there is an intelligent, competent waiver must depend on the unique facts and circumstances of each case." *Valiton v. State*, 119 Md. App. 139, 148, *cert. denied*, 349 Md. 495 (1998). If the record "does not disclose a knowledgeable and voluntary waiver of a jury trial, a new trial is required." *Smith v. State*, 375 Md. 365, 381 (2003).

After reviewing the transcript of the waiver colloquy in this case, we conclude the circumstances presented here show that Taylor's jury trial waiver was knowing, voluntary, and intelligent. The following circumstances found in the record are relevant. *First*, Taylor's attorney announced that Taylor wanted to proceed with a bench rather than a jury trial. *Second*, the record shows Taylor and her counsel discussed what a jury trial is and that she would prefer a bench trial, based on counsel's advice. *Third*, the record amply demonstrates that Taylor understood what a jury is, how jury selection would proceed, and that she was choosing to have the presiding judge alone decide whether she was guilty of the allegations. We may presume that, when an attorney states in court that the defendant wants to waive the right to a jury trial, the attorney has advised the defendant of the advantages and disadvantages of having the case evaluated by a judge instead of a jury. *Kang v. State*, 163 Md. App. 22, 36 (2005) ("[W]e may presume that criminal defendants represented by counsel have been informed of their constitutional rights," including the right to a jury trial), *aff'd*, 393 Md. 97 (2006).

*Finally*, there was no substantive "factual trigger" that would have caused the court to inquire further into the voluntariness of Taylor's waiver. In other words, the court had the opportunity to observe and discern Taylor's demeanor. There is nothing in the record that suggests Taylor said or did something that would have prompted the court to inquire further into the voluntariness of Taylor's jury trial waiver. *See Abeokuto v. State*, 391 Md. 289, 321 (2006) (defendant's waiver of a jury trial was knowing and voluntary because his behavior did not indicate he had been coerced or forced, and his defense counsel advised

him about his right to a jury trial prior to the waiver); *State v. Hall*, 321 Md. 178, 183–84 (1990) ("[D]efendant's demeanor, tone, facial expressions, gestures, or other indicia ... may be indicative of a knowing and voluntary waiver of the jury trial right."). Absent any indicia of coercion—and we will not search for it—we cannot say that a jury trial waiver was involuntary. Consequently, on this record, we conclude Taylor's waiver was knowing, voluntary, and intelligent.

**B. The Evidence Was Sufficient to Convict Taylor of Disorderly Conduct.**

Generally, the standard of review to a challenge of the sufficiency of the evidence has been unchanged for almost 50 years. The standard is, after reviewing the evidence in the light most favorable to the State, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 318–19 (1979) ("[T]he critical inquiry on review of the sufficiency of the evidence to support a criminal conviction .... is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.").

Significantly, an appellate court does not retry the case. This is because the factfinder is in the best position to view the evidence and assess the credibility of the witnesses. Accordingly, "we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence. We defer to the jury's inferences and determine whether they are supported by the evidence." *Smith v. State*, 415 Md. 174, 185 (2010).

Because the court acquitted Taylor of trespass, the court only considered whether Taylor committed the offense of disorderly conduct. Md. Code Ann., Crim. Law § 10-201(c)(2), states that "a person may not willfully act in a disorderly manner that disturbs the public peace." "Under subsection (c)(2), the defendant must willfully, in a public place or public conveyance and in the actual presence of other persons, act in a disorderly manner to the disturbance of the public peace of those other persons." *Att'y Grievance Comm'n of Md. v. Mahone*, 435 Md. 84, 104–05 (2013). In *Mahone*, the Supreme Court of Maryland held that disorderly conduct is

> the doing or saying, or both, of that which offends, disturbs, incites, or tends to incite, a number of people gathered in the same area.... [I]t is conduct []of such a nature as to affect the peace and quiet of persons who may witness the same and who may be disturbed or provoked to resentment thereby.

*Id.* at 105 (internal citations and quotations omitted).

Here, the evidence, taken in the light most favorable to the State, was that Taylor appeared in the District Court of Maryland for Saint Mary's County on February 16, 2023. Bailiff Don Chamblee was on duty at the District Court on that date and testified that when he walked in the courtroom, Taylor was speaking to the Assistant State's Attorney handling the docket in courtroom 2. At some point, according to Chamblee's testimony, Taylor became "extremely irate" and "unhappy" and left the courtroom.[1] As she left the courtroom

[1] After the State's case-in-chief and during Taylor's motion for judgment of acquittal, defense counsel explained that Taylor was upset because the prosecutor assigned to courtroom 2 decided to enter a *nolle prosequi* for the case in which Taylor was the complaining witness.

for a second time, she began yelling that the court system was "unfair and corrupt." She accused another bailiff present, Jim Wobbleton, of being a member of the Nazi Gestapo. According to Chamblee's testimony, Taylor "was causing quite a commotion in the courtroom." At the time of Taylor's "very loud" tirade, there were "other people in the courtroom." According to Chamblee, the other people in the courtroom stared at Taylor "in awe," and "in amazement at . . . how she was acting."

Chamblee and Wobbleton followed Taylor into the hallway as she left courtroom 2. Chamblee testified that, at the time, courtroom 1, adjacent to courtroom 2, was in session. When Taylor got to the hallway, she met another lady, later identified as Anna Farrell, and Taylor "got extremely loud, screaming and hollering." She was "yelling that we're the Gestapo and that . . . the courtroom was so unjust; you can't get justice in the courtroom; they're all corrupt." Chamblee told Taylor "if she didn't leave the courthouse and calm down, she was going to be placed under arrest." Chamblee told that twice. After the second time, she said to Chamblee, "Go ahead and arrest me." And he did, charging Taylor with disorderly conduct and trespass.[2]

[2] In her case-in-chief, Taylor called Farrell as a witness. Farrell testified that Taylor was "shocked" and "upset," after the prosecutor *nol prossed* the case in which Taylor was the victim but did not raise her voice or was being otherwise disruptive.

Taylor also testified as well, saying, essentially, she "didn't really care" that her case had been dismissed. She only approached the assigned prosecutor, and later left the courtroom, because she wanted to retrieve some paperwork from the prosecutor's office. She testified that she did not yell or cause a scene in or outside of the courtroom. In light of the verdict, the court resolved any factual dissonance between the State's and the defense's versions of what happened in favor of the State.

Using the statutory definition and evidence outlined above, we conclude a rational trier of fact could have found the essential elements of disorderly conduct beyond a reasonable doubt. Taylor visibly upset members of the public in a District Court courtroom because of her loud and vociferous reaction to her case being dismissed. We defer to the credibility determination of the trial judge in assessing the believability of the witnesses. The evidence, taken in the light most favorable to the State, is sufficient to show Taylor willfully caused a disturbance by "screaming and hollering and yelling" in reaction to the prosecutor *nol prossing* the criminal case in which she was a complaining witness.

Finally, Taylor notes that when rendering the verdict, the judge said Taylor "possibly" raised her voice. Taylor now argues this seemingly equivocal factual finding does not constitute a proper verdict beyond a reasonable doubt. This claim is unavailing. As we stated in *Chisum v. State*, "[w]hat must be found to be sufficient . . . is not the ostensible fact-finding of the trial judge . . . but the sufficiency of the evidence itself." 227 Md. App. 118, 123 (2016). Specifically, we said that

> [t]he issue of legal sufficiency of the evidence is not concerned with the findings of fact based on the evidence or the adequacy of the fact findings to support a verdict. It is concerned only, at an earlier pre-deliberative stage, with the objective sufficiency of the evidence itself to permit the factfinding even to take place. The burden of production is not concerned with what a factfinder, judge or jury, does with the evidence. It is concerned, in the abstract, with what any judge, or any jury, anywhere, could have done with the evidence.

*Id.* at 129–30. In other words, the court's comment that Taylor "possibly" raised her voice does nothing to lessen the fact that the objective evidence adduced at trial was sufficient to

support the conclusion that Taylor acted disorderly by being loud and disruptive in a courtroom, a public place. We perceive no error and affirm.

**THE JUDGMENT OF THE CIRCUIT COURT FOR SAINT MARY'S COUNTY IS AFFIRMED. APPELLANT TO PAY THE COSTS.**