

Circuit Court for Baltimore City  
Case No. 122124011

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 2251

September Term, 2022

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MIKE HUNTER

v.

STATE OF MARYLAND

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Nazarian,  
Reed,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: March 29, 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 and fentanyl with intent to distribute and four counts of illegal possession of a firearm, Mike Hunter, appellant, presents for our review a single issue: whether the court erred “in allowing a lay witness to give prejudicial expert testimony.” For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Baltimore City Police Detective Tyler Scott, who testified that at approximately 11:00 p.m. on April 13, 2022, he and his partner were “driving around, going up McCulloh Street,” when the detective “observed a . . . gray sedan parked on Wilson Street,” with two individuals “standing next to each other” on “the driver’s side of the vehicle.” Detective Scott identified Mr. Hunter in court as one of the individuals. When Mr. Hunter “look[ed] over at [the detectives’] vehicle,” he and the other individual “immediately began walking away from the vehicle towards McCulloh Street.” Mr. Hunter then “entered [a] convenience store at the corner,” exited the store, “walk[ed] up to a female,” and “handed her [a] key.” Mr. Hunter and the female “walked to the corner of Wilson and Madison, [where] the female walked over to [an] Infiniti[i], opened the driver’s side door, . . . put the windows up [on] the vehicle, and then . . . locked it.” The female then “walked back to Mr. Hunter, handed Mr. Hunter the key, and then they both walked towards Madison.”

Detective Scott “exited [his] vehicle[,] looked inside of the Infiniti[i], and observed a handgun stuffed in between the driver’s seat and the center console.” The detective asked two other detectives “to attempt to stop” Mr. Hunter and the other individual, “and that’s when the other individual fled.” Detective Scott and his colleagues “were chasing” the

individual, later identified as a man named Arroyo, “for a little bit, and then [the detective] came back to the vehicle, and that’s where Mr. Hunter was standing . . . , and that’s when [the detective] took him into custody.” Detective Scott “retrieved the Infinit[i] key from [Mr. Hunter’s] pocket” and “confirmed that it unlocked that . . . vehicle.” After Mr. Hunter “was transported . . . to [the police’s] Central District,” the detective searched the Infiniti and discovered, among other items, a Polymer 80 “ghost gun,” a Smith & Wesson .40 caliber handgun, a bag containing “47 purple-topped vials containing suspected crack cocaine and 49 gelcaps containing suspected heroin, fentanyl,” and “a plastic baggie . . . that contained a white powder, suspected cocaine.”

Following Detective Scott’s testimony, the State produced evidence that the substances inside the vials and gelcaps were analyzed and determined to contain cocaine and fentanyl. The parties stipulated that Mr. Hunter “is prohibited from possession of a regulated firearm because of a previous conviction that prohibits his possession of a regulated firearm.”

Mr. Hunter contends that the court “erred in allowing [Detective Scott] to give prejudicial expert testimony.” Following the selection of the jury, the prosecutor moved *in limine* “to have testimony from Detective Scott to offer him as an expert.” After hearing testimony from the detective, the court stated “that because there was a violation of Rule 4-263(d)(8)(A) by the State’s failure to give notice of the substance of the proposed expert’s findings and opinions, and a summary for the grounds for each opinion,” Mr. Hunter “has been prejudiced, and as a result, [the court was] going to preclude this detective

from testifying as an expert as to any matters that were not disclosed in conformance with” the Rule.

During Detective Scott’s testimony before the jury, the following colloquy occurred:

[PROSECUTOR: W]hat kind of cases do you handle, usually?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. SCOTT]: In [the District Action Team]?

THE COURT: Well, actually, come on up.

(Counsel and the defendant approached the bench and the following ensued:)

THE COURT: What is the basis of the objection?

[DEFENSE COUNSEL]: Those are the kinds of questions that go to qualifying a witness as an expert. We’ve already been down that road.

THE COURT: So, your basis is relevance?

[DEFENSE COUNSEL]: Correct.

THE COURT: It’s background information. I’ll let it in.

(Counsel and the defendant returned to the trial tables and the following ensued:)

[PROSECUTOR:] Detective, what kind of cases do you deal with in the District Action Team?

[DET. SCOTT]: Narcotics and firearm offenses.

[PROSECUTOR]: So, what kind of narcotics cases do you handle?

[DET. SCOTT]: Distribution, selling, possessing.

[PROSECUTOR]: And how do your cases initiate?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. SCOTT]: Most of the time, just drive around, observing individuals. Sometimes, information that we have already from informants, or other things going on in the area.

[PROSECUTOR:] Now, when you're driving around, observing individuals, what sorts of things are you looking out for?

[DET. SCOTT]: Known drug shops that we know sell drugs, as well as individuals illegally possessing firearms, conducting characteristic armed persons, or people actually selling narcotics.

[PROSECUTOR]: Could you explain a little bit further? You said you look for known drug shops. Could you talk about that?

[DET. SCOTT]: Yes.

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. SCOTT]: So, we have out known areas where it's a high drug area, which we kind of target to look for illegal sales of narcotics, conduct covert surveillance, camera systems in the area.

[PROSECUTOR:] And you said firearms cases, too. What does that look like, your firearms cases?

[DET. SCOTT]: What do you mean?

[PROSECUTOR]: How do you come upon a firearms case?

[DET. SCOTT]: A lot of times –

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. SCOTT]: A lot of times, it starts with narcotics investigations because kind of guns and drugs kind of are hand-in-hand most of the time. Sometimes, it's just from vehicle stops.

[DEFENSE COUNSEL]: Objection. Move to strike that last comment.

THE COURT: Overruled.

[PROSECUTOR:] You were saying?

[DET. SCOTT]: Sometimes, it's from vehicle stops, or just observing individuals possessing the firearm.

[PROSECUTOR]: In the two and a half years that you've been working in DAT, how many cases have you been involved with concerning drugs?

[DEFENSE COUNSEL]: Objection.

THE COURT: Overruled.

[DET. SCOTT]: Hundreds.

[PROSECUTOR:] And how many cases have you been involved with concerning firearms?

[DET. SCOTT]: Hundreds. You mean directly, or like primary, or just involved in general?

[PROSECUTOR]: Just involved with.

[DET. SCOTT]: Hundreds.

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[PROSECUTOR:] What ratio of cases, or percentage of cases that you have involve both guns and drugs, as opposed to just one or the other?

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: Let me rephrase.

. . . What percentage of your narcotics cases would you say also involve a firearm?

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR:] How many cases have you been involved with, in general, not just as primary, that involved both narcotics and firearms?

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR]: Your Honor, may we approach?

THE COURT: Yes.

(Counsel and the defendant approached the bench and the following ensued:)

[PROSECUTOR]: Your Honor, I don't see how the detective is able to testify to the amount of narcotics cases he's had, the amount of firearms cases he's had, but he can't testify –

THE COURT: Well, the issue is the relationship. You're trying to back-door in that there's a relationship between guns and drugs and –

[PROSECUTOR]: Your Honor, he's already said it and you've allowed that.

[DEFENSE COUNSEL]: No, he hasn't.

[PROSECUTOR]: Yes, he has. He said that, in his experience, guns and drugs go together.

THE COURT: Actually, I missed that.

[DEFENSE COUNSEL]: I'm going to ask that it be stricken.

[PROSECUTOR]: We can play back the tape. [Defense counsel] objected to it, he asked for it to be stricken, and you –

THE COURT: Oh, I didn't hear the question correctly. I'm going to clean it up now.

The court subsequently instructed the jury:

Now, there was a bit of testimony . . . that slipped by me. The witness had something to the effect that guns and drugs go together. That testimony should be stricken and you should not consider it.

Following the close of the evidence, the court instructed the jury:

The following things are not evidence and you should not give them any weight or consideration: (1) any testimony that I struck or told you to disregard and any exhibits that I struck or did not admit into evidence; (2) questions that the witnesses were not permitted to answer and objections of the lawyers.

When I did not permit the witness to answer a question, you must not speculate as to the possible answer. If after an answer was given I ordered that the answer be stricken, you must disregard both the question and the answer.

Mr. Hunter now contends that

[t]he court's admonition was too little, too late. Having consistently allowed the detective to give expert testimony regarding his experience with drug cases and gun cases and the connection between drugs and guns and in direct contravention of its previous ruling, the court allowed improper testimony that applied directly to the elements of the crimes charged against Mr. Hunter. The court erred when it overruled defense counsel's repeated objections and the instruction given later could not cure the significant prejudice that had already been suffered by [Mr. Hunter].

The State counters that the court "properly regulated Detective Scott's testimony and ensured the jury did not consider his comment about guns and drugs going 'hand-in-hand' by issuing a curative instruction." The State further contends that "[i]f improper, Detective



Scott’s testimony was a blurt that the court properly cured with an instruction in which [Mr.] Hunter acquiesced,” and “[a]ny error was harmless.”

With respect to Detective Scott’s testimony that “guns and drugs kind of are hand-in-hand most of the time,” we conclude that Mr. Hunter’s challenge to this testimony is waived. We have stated that “where a party acquiesces in a court’s ruling, there is no basis for appeal from that ruling.” *Simms v. State*, 240 Md. App. 606, 617 (2019) (citation omitted). Here, the court granted defense counsel’s motion to strike the challenged testimony and instructed the jury to “not consider it,” and defense counsel did not request any further remedy. Mr. Hunter thus acquiesced in the court’s ruling, and hence, he may not appeal from it. Even if Mr. Hunter had not acquiesced in the court’s ruling, the Supreme Court of Maryland has stated that “generally[,] cautionary instructions are deemed to cure most errors, and jurors are presumed to follow the court’s instructions[.]” *Carter v. State*, 366 Md. 574, 592 (2001) (citation omitted). Here, the court, prior to deliberations, instructed the jury that if the court “ordered that [an] answer be stricken,” the jury “must disregard both the question and the answer.” We presume that the jury followed this cautionary instruction, and hence, the court did not err in failing to take any additional action *sua sponte*.

With respect to Detective Scott’s remaining testimony, we conclude that the testimony was admissible. Rule 5-701 states that if a “witness is not testifying as an expert, the witness’s testimony *in the form of opinions or inferences* is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue.”

(Emphasis added.) Here, the prosecutor questioned Detective Scott as to the “kind of cases” that he “usually” handles, how those cases “initiate,” how he “look[s] for known drug shops,” how he “come[s] upon a firearms case,” and “how many cases [he has] been involved with concerning drugs.” These questions did not require the detective to testify in the form of opinions or inferences, and hence, the court did not err in overruling defense counsel’s objections to, and admitting, the testimony.

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