

Circuit Court for Baltimore City
Case No. 123115010

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2518

September Term, 2023

KARON ALSTON

v.

STATE OF MARYLAND

Leahy,
Zic,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 7, 2025

*This is a per curiam opinion. Under 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 carjacking and related offenses, Karon Alston, appellant, presents for our review a single issue: whether the court abused its discretion in denying his motion for mistrial. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called Samuel Simpkins, who testified that on February 2, 2023, he went to a seafood restaurant and ordered a crab cake platter. Discovering that he “didn’t have enough money,” Mr. Simpkins “went across the street” and withdrew “some money out of [an] ATM machine.” As Mr. Simpkins returned to the restaurant, “two guys [were] trailing [him] the whole time.” After Mr. Simpkins “paid for [his] crab cake,” one of the men approached Mr. Simpkins and “tried to sell [him] something.” Mr. Simpkins declined, exited the restaurant, and retrieved his phone from his rental car. As Mr. Simpkins started to re-enter the restaurant, the men stopped him, and one of the men stated: “I want your money and your keys.” Mr. Simpkins “was going to try and fight,” but one of the men “pulled [Mr. Simpkins’s] coat across [his] head.”

The State then played for the jury video surveillance footage from inside the restaurant, which shows two men approach Mr. Simpkins as he was standing at the counter. Mr. Simpkins testified that one of the men approached “with something in his bag that he was trying to sell.” Mr. Simpkins identified one of the men in the footage as “one of the men that robbed” him. Mr. Simpkins testified that when he stated that he “wasn’t going to give” his money and keys to the man who demanded them, the man “pulled a pistol out and told [Mr. Simpkins] that he wasn’t playing.” Mr. Simpkins replied: “Well, you’re just going to have to shoot me.” The State then played for the jury additional video surveillance

footage from outside the restaurant that, Mr. Simpkins testified, depicts “where [the men] were attacking” him. Mr. Simpkins testified that when the man with the gun “pulled it out, [Mr. Simpkins] was looking straight down the barrel.” The man “fired it the first time,” and “the barrel . . . lit up.” When Mr. Simpkins said, “[y]our gun ain’t firing,” the man “fired [a] second time.” The gun “just lit up,” and Mr. Simpkins stated, “God is with me.” During Mr. Simpkins’s “struggle” with the men, they “broke [his] glasses,” and his “keys and everything hit the ground.” Mr. Simpkins then re-entered the restaurant and “told them to call the police.” The surveillance footage shows the men subsequently entering Mr. Simpkins’s car and driving it away.

The State also called Baltimore City Police Detective Lamall Wilson, who confirmed that on February 2, 2023, he received “a call in reference to something that occurred at the 6800 block of . . . Harford Road.” Detective Wilson testified that he “spoke to the primary officer that was there on scene,” “reviewed . . . the incident report that he’d written,” and “observed his body-worn camera footage.” The detective then “reviewed [the] security footage from the business” and “was able to take a still photo of . . . a person of interest.” Detective Wilson sent the photo “throughout the Department [and] through the Department database just seeing if anyone recognized that individual.” The detective subsequently “received a possible identification,” which “gave . . . a name and date of birth, and the name was Karon Alston.”

Detective Wilson “retrieved [Mr. Alston’s] MVA photo” and “compared [it] to the flyer [that he] had put out.” The detective subsequently discovered that Mr. Alston “was on a GPS device,” and obtained “times and locations” for him. The information revealed

that Mr. Alston “was there at the incident that occurred on the 2nd on . . . Harford Road.” Detective Wilson testified that the “vehicle was recovered on the 3rd of February of 2023,” and “the GPS locations, at about 3:00 a.m. on the 3rd, places [Mr. Alston] in the area where the vehicle was later recovered.” The detective later learned “where [Mr. Alston] lived,” and discovered that “the address [where Mr. Alston] was staying” was “just maybe a block over” from where the vehicle was recovered.

Mr. Alston contends that the court abused its discretion in denying his motion for mistrial. Prior to trial, the following colloquy occurred:

[DEFENSE COUNSEL:] . . . Your Honor, I know the State intends to introduce GPS data that was recorded by an ankle monitor that Mr. Alston was wearing at the time of these events.

The Defense would request that the data be – that it not be referred to as an ankle monitor, ankle bracelet. We would ask that it be referred to something along the lines of Mr. Alston carried a device that recorded GPS data at the time of these events.

* * *

[PROSECUTOR:] The State would be open [to] saying that the Defendant had a GPS monitoring device on him, or was equipped with a GPS monitoring device.

THE COURT: What the Defense is alluding to is the prejudicial effect of using ankle monitor.

[PROSECUTOR]: Understood, Your Honor. I think by changing it [to] the Defendant was equipped with a GPS monitoring device would get rid of that prejudice because it doesn’t discuss that he was on home detention. It doesn’t say that he was on ASAP Home Detention. I can, of course, tell my officers not to mention ASAP Home Detention. It does not get into any details as to what the device was.

THE COURT: So you just what she just said, a GPS monitoring device.

[DEFENSE COUNSEL]: I said a device that recorded GPS data. I was trying to avoid the word, “[m]onitoring.”

THE COURT: Can we say GPS device?

[PROSECUTOR]: Yes, Your Honor.

During Detective Wilson’s testimony, the following colloquy occurred:

[PROSECUTOR: O]nce you found out that Mr. Alston was on a GPS device, what did you do?

[DET. WILSON:] I reached out to what was ASAP Home Detention.

[DEFENSE COUNSEL]: Objection. Move to strike. May we approach?

THE COURT: Yes.

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

THE COURT: Your objection on the record, please.

[DEFENSE COUNSEL]: Yes, Your Honor. I had objected to home detention, home monitoring, or references to that.

* * *

THE COURT: Objection is sustained. The testimony is stricken as to ASAP Home Detention. Do you want me to repeat that again?

[DEFENSE COUNSEL]: No, Your – just for the record, I make a motion for a mistrial. I think that bell can’t be unring. I mean –

THE COURT: Do you have a response?

[PROSECUTOR]: Your Honor, I believe striking it from the testimony, even (indiscernible . . .) result from, or an adequate response to this.

THE COURT: Yeah. I don't know what – I agree. I think I'm going to deny your motion for a mistrial. I'm going to strike the testimony ASAP Home Detention. He's already testif[ied] that he was able to identify him and he didn't identify him through the traditional means with which the Detective identified people. He actually talked about an MVA. So there's no inference at that time that he has any connection to the crim[inal] justice system.

* * *

(Counsel and the Defendant returned to the trial tables and proceedings resumed in open court:)

THE COURT: The objection is sustained. The testimony regarding ASAP is stricken from the record.

Before Detective Wilson's testimony resumed, the court received from juror number eight a note that stated: "[I]s the GPS device and the ASAP the same item?" The court asked counsel to again approach the bench and showed them the note. The court stated that it would respond: "Please continue to listen to the testimony. Please also note that any testimony regarding ASAP has been stricken from the record." Both counsel agreed with the response. The court then stated: "[I]t will go back to Juror 8 because they asked the question. But they can all consider the note." Following Detective Wilson's testimony, the parties entered into evidence a stipulation that Mr. Alston "was previously convicted of a crime that disqualifies him from possessing a firearm."

Mr. Alston contends that the court abused its discretion in denying his motion for mistrial, because "the jury was presented information that stained Mr. Alston's character outside of the context of February 2, 2023," and "this detail was so prejudicial that the court's curative instruction could not reverse the harm it caused." We disagree. We have stated that "[i]n determining whether to grant a mistrial, courts should consider

whether the reference . . . was repeated or whether it was a single, isolated statement; whether the reference was solicited by counsel, or was an inadvertent and unresponsive statement; whether the witness making the reference is the principal witness upon whom the entire prosecution depends; whether credibility is a crucial issue; and whether a great deal of other evidence exists.”

Jackson v. State, 230 Md. App. 450, 467-68 (2016) (internal citations and brackets omitted). In reviewing whether a trial court abused its discretion in failing to grant a mistrial in response to impermissible testimony, we consider whether “the trial court immediately sustained [an] objection to the question and struck it;” whether the defendant requested a curative instruction; and whether, following “the presentation of evidence,” the court instructed the jury to “give [no] weight or consideration” to “testimony that [the court] struck or told [the jury] to disregard[.]” *Id.* at 468 (quotations omitted).

Here, Detective Wilson’s mention of ASAP Home Detention was a single, isolated statement. The reference was not solicited by the prosecutor, but was instead an inadvertent and unresponsive statement. Although Detective Wilson was an important witness with respect to the events that occurred following the carjacking, the jury could determine for themselves whether the video surveillance footage revealed that Mr. Alston was one of the assailants, and hence, the entire prosecution did not depend upon Detective Wilson and the jury’s determination of his credibility. The State presented a great deal of other evidence, including lengthy and detailed testimony by Mr. Simpkins, and video surveillance footage from inside and outside the restaurant. Because Mr. Alston stipulated that he had been “previously convicted of a crime that disqualifies him from possessing a firearm,” the challenged reference was not the only “information that stained Mr. Alston’s

character outside of the context of” the carjacking. Immediately after the detective made the challenged reference, the court sustained defense counsel’s objection to the reference, and twice gave a curative instruction. Finally, following the close of the evidence, the court instructed the jury to give no “weight or consideration” to “[a]ny testimony that [the court] struck[] or told [the jury] to disregard,” and if the court “ordered that [an] answer be stricken,” to “disregard both the question and the answer.” We conclude that, in light of these circumstances, the court’s instructions were adequate to cure any prejudice that may have resulted from the challenged reference, and hence, the court did not abuse its discretion in denying the motion for mistrial.

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