

Circuit Court for Prince George's County
Case No. 12-1616X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 536

September Term, 2017

EDDIE IVEY

v.

STATE OF MARYLAND

Woodward, C.J.
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 9, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A jury, in the Circuit Court for Prince George's County, convicted Eddie Ivey, appellant, of first-degree assault, second-degree assault, and reckless endangerment. In this appeal, Ivey asks: "Did the circuit court err in permitting the State to impeach him with a prior assault conviction?" For reasons to follow, we affirm.

Ivey was arrested and charged following a fight he had with one of his roommates. At trial, Ivey testified on direct examination that he "really hadn't been in trouble like this before." The State then asked the court if it could question Ivey about a prior assault conviction, and, after finding that Ivey had "opened the door," the court agreed. When, on cross-examination, the State asked Ivey if he had been previously convicted of assault, Ivey answered in the negative. At no time did Ivey or defense counsel object. Ivey now argues that the circuit court erred in admitting his prior assault conviction into evidence.

We hold that Ivey's claim was waived. Maryland Rule 4-323(a) provides that "[a]n objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." Because Ivey failed to object when the State questioned him about his prior conviction, that objection is considered to have been waived and cannot be raised on appeal. *Brice v. State*, 225 Md. App. 666, 678 (2015), *cert. denied*, 447 Md. 298 (2016); *See also* Md. Rule 8-131(a).

Assuming, *arguendo*, that the objection was not waived, we are persuaded that the trial court did not err in allowing the State to question Ivey about his prior assault conviction. Ivey, who was on trial for assault, testified on direct examination that he "really hadn't been in trouble like this before." As a result of that affirmative statement, Ivey

“opened the door” to being questioned about his prior assault conviction. *See Little v. Schneider*, 434 Md. 150, 157 (2013) (“The doctrine of ‘opening the door’. . . allow[s] parties to ‘meet fire with fire,’ as they introduce otherwise inadmissible evidence in response to evidence put forth by the opposing side.”) (internal citations omitted).

**JUDGMENTS OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**