Circuit Court for Baltimore City
Case No. 120023005

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 780

September Term, 2022

JEROME COLLIER

v.

STATE OF MARYLAND

Berger,
Albright,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: May 16, 2023

* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

A jury, in the Circuit Court for Baltimore City, convicted Jerome Collier, appellant, of first-degree murder, second-degree murder, use of a firearm in a crime of violence, and carrying a handgun. The court sentenced him to a total term of life plus ten years' imprisonment.

In this appeal, he presents three questions, which we have rephrased for clarity:

1. Did the manner in which the trial court posed its "strong feelings" question during *voir dire* require each prospective juror to evaluate his or her own potential bias, thereby violating Maryland precedent?

2. Did the trial court abuse its discretion in refusing to rephrase a *voir dire* inquiry that asked prospective jurors whether they either had experience in law enforcement or would give more or less weight to the testimony of a police officer?

3. Did the trial court err in limiting Collier's cross-examination of a witness regarding the victim's alleged criminal background?

Finding neither error nor abuse of discretion, we affirm the judgment of the circuit court.

BACKGROUND

In the evening hours of October 24, 2019, Dana Brown was shot and killed near the 1800 block of Westwood Avenue in Baltimore. Collier was later implicated as the shooter. He was subsequently arrested and charged with murder and various firearm offenses. Following a jury trial, Collier was convicted and sentenced. This timely appeal followed. Additional facts will be supplied in the discussion below.

DISCUSSION

I.

Collier's first claim of error concerns an issue that arose during *voir dire* of prospective jurors when the trial court posed the following question:

> Now, as I indicated, ladies and gentlemen, the State has charged the defendant, Mr. Collier, with murder and a number of handgun related crimes. These crimes are often in the news here in Baltimore City, they're on the minds and often they're involved in the discussions people have here in Baltimore City. So the next question is, and you should stand if you have any strong personal feelings about the charge of murder in the first degree and gun related crimes. Stand up if you have strong feelings about them?

Several prospective jurors stood in response to the trial court's question. For each of those who stood, the court recorded the prospective juror's number, verified the answer, and then asked if his or her strong feelings would interfere with his or her ability to be fair and impartial. After completing that process for each of the prospective jurors who stood, the court reminded all of them that they had "taken an oath to be honest" and again asked if any had "strong feelings about [the] charges[.]" Several additional prospective jurors stood in response, and, for each of those, the court recorded the prospective juror's number, verified each's answer, and then asked if his or her strong feelings would interfere with his or her ability to be fair and impartial. The court then held a bench conference, during which it struck all prospective jurors who had indicated that their strong feelings would affect their ability to be fair and impartial.

The following day, the parties returned to court for the continuation of *voir dire* with a second panel of prospective jurors.[1] At the beginning of those proceedings, defense counsel objected to the manner in which the trial court had asked the "strong feelings" question. Defense counsel maintained that the court should have questioned each juror individually at the bench. The court overruled the objection and proceeded with *voir dire*. The court posed the "strong feelings" question as follows:

> Now, again ladies and gentlemen, as I've indicated, Mr. Collier is charged with the crime of first degree murder and a number of handgun related charges. Do any of you have strong feelings about those crimes, that is murder and handgun crimes? If you have strong feelings about them, please stand at this time.

Several stood in response to the trial court's question. The court again recorded the prospective juror's number, verified his or her answer, and then asked if his or her strong feelings would interfere with his or her ability to be fair and impartial. After completing that process, the court held a bench conference and struck all the prospective jurors who had indicated that their strong feelings would affect his or her ability to be fair and impartial.

Parties' contentions

Collier contends that the trial court erred in asking the "strong feelings" inquiry in the manner in which it did. More particularly, he argues that by posing its question in two parts – by first asking whether any prospective juror had strong feelings about the charged crimes, and then asking whether each juror could be impartial despite those feelings – the

[1] The previous day's venire panel had been exhausted, and there were not enough potential jurors to form an adequate pool for jury selection.

court violated the Supreme Court of Maryland's[2] holdings in *Dingle v. State*, 361 Md. 1 (2000) and *Pearson v. State*, 437 Md. 350 (2014) by improperly "requir[ing] each prospective juror to evaluate his or her own potential bias." He contends that those who indicated that they had strong feelings about the charged crimes should have been asked follow-up questions about the details of "relevant experiences or associations[,]" and that the failure to do so deprived the court of information necessary to decide whether they were able to conduct themselves impartially.

The State contends that the trial court properly exercised its discretion in asking the "strong feelings" question in the manner that it did and that doing so was consistent with the relevant case law. In addition, the State argues that any error the court may have made was harmless because no prospective juror responding to the strong feelings question was ultimately selected as a juror.

Analysis

"Voir dire, the process by which prospective jurors are examined to determine whether cause for disqualification exists, is the mechanism whereby the right to a fair and impartial jury, guaranteed by Art. 21 of the Maryland Declaration of Rights, is given substance." *Dingle*, 361 Md. at 9 (internal citations and footnote omitted). "To that end,

[2] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See, also*, Md. Rule 1-101.1(a) ("From and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland….").

[o]n request, a trial court must ask a *voir dire* question if and only if the *voir dire* question is reasonably likely to reveal specific cause for disqualification." *Collins v. State*, 463 Md. 372, 376 (2019) (citation and quotations omitted). We review "for abuse of discretion a trial court's rulings on the record of the *voir dire* process as a whole[.]" *Id.* at 391 (citation and quotations omitted).

In *Dingle*, the Court analyzed the propriety of compound *voir dire* questions. *Dingle*, 361 Md. at 3-4. There, the defendant asked the trial court to pose a series of *voir dire* questions related to certain experiences or associations of the prospective jurors. *Id.* at 3. The court did so by merging each of the requested questions with the State's suggestion that the court inquire into whether the experiences or associations would affect his or her ability to be fair and impartial. *Id.* at 3-4. The court posed several two-part questions to the venire, asking first whether the member had a particular experience or association and then whether that experience or association would affect his or her ability to be fair and impartial. *Id.* The prospective jurors were asked to stand only if they answered "yes" to both parts of the inquiry. *Id.* at 4-5.

The defendant was convicted. This Court affirmed the defendant's conviction, *id.* at 21, and the Supreme Court of Maryland reversed, noting that, during the *voir dire* of prospective jurors, it is the trial court – not the prospective juror – who must decide whether there is a cause for disqualification of a prospective juror. *Id.* at 14-15. According to that Court, the trial judge had "failed to appreciate that, should there be a challenge, he had the responsibility to decide, based upon the circumstances then existing, . . . whether any of the venire persons occupying the questioned status or having the questioned experiences

should be discharged for cause[.]" *Id.* at 17. By not requiring "an answer to be given to the question as to the existence of the status or experience unless accompanied by a statement of partiality, the trial judge was precluded from discharging his responsibility, *i.e.*, exercising discretion, and, at the same time, the [defendant] was denied the opportunity to discover and challenge venire persons who might be biased." *Id.*

In *Pearson v. State*, the Supreme Court of Maryland held that, upon request, a trial court must ask whether a prospective juror has "strong feelings" about the charged crime. 437 Md. at 354. According to the Court, when posing that question, the trial court must avoid phrasing it in a manner that required the prospective jurors to evaluate their own potential bias. *Id.* at 363-64. In *Pearson*, the trial court had asked prospective jurors: '"Does any member of the panel hold such strong feelings regarding violations of the narcotics laws that it would be difficult for you to fairly and impartially weigh the facts of this trial where narcotics violations have been alleged?"' *Id.* at 355. The Court held, as in *Dingle*, that the phrasing of the question "shifted responsibility to decide a prospective juror's bias from the trial court to the prospective juror[.]" *Id.* at 363. The Court stated that the trial court should have posed the question as: "Do any of you have strong feelings about [the crime with which the defendant is charged]?" *Id.* The Court, cautioning that a prospective juror is not automatically disqualified if he or she answers the "strong feelings" question in the affirmative, stated that the proper procedure then is for the attorneys or the trial court to individually question each juror so that the trial court can determine "whether or not that prospective juror's strong feelings about the crime with which the defendant is charged constitute specific cause for disqualification." *Id.* at 364.

In *Collins v. State*, the Supreme Court of Maryland reaffirmed *Pearson*, holding that the trial judge in that case had erred in refusing the defendant's request for "a properly-phrased – *i.e.*, non-compound – 'strong feelings' question." 463 Md. at 378-79. In so holding, the Court rejected an argument by the State that other questions posed by the trial judge were an adequate substitute for a properly-phrased "strong feelings" question. *Id.* at 398-400. Those questions included whether prospective jurors had had something happen to them in the past that would prevent them from returning a verdict based on the evidence; whether they would allow certain emotions to influence their verdict; and whether there were any other reasons why they could not be fair and impartial. *Id.* at 398-99. The Court concluded that those other questions could not substitute for a properly worded "strong feelings" question because, as in *Dingle*, the questions "shift[ed] from the trial court to the prospective jurors [the] responsibility to decide prospective juror bias." *Id.* at 399 (citations and quotations omitted). The Court explained:

> Due to the way in which the circuit court phrased these three questions, it is impossible to know whether any prospective juror refrained from responding because, even though he or she was involved with a prior experience, emotion, or other matter that posed a threat to his or her ability to be fair and impartial, the prospective juror determined for him- or herself that the prior experience, emotion, or other matter would not prevent him or her from being fair and impartial.

Id. at 399-400.

We glean from those cases the following. Upon request, a trial court must ask prospective jurors whether they have "strong feelings" about the charged crimes. And when it does, the court must allow a prospective juror to answer the "strong feelings" question *before* asking any follow-up questions regarding his or her potential bias. In other

words, the trial court cannot compound the "strong feelings" question with a "bias" question that requires a prospective juror to evaluate whether his or her strong feelings would affect his or her ability to be fair and impartial before responding to the "strong feelings" question. The court should ask whether any prospective juror has strong feelings about the charged crimes in a manner that provides all prospective jurors with the opportunity to respond just to that question. Then, each prospective juror who responds in the affirmative to the "strong feelings" question can be individually examined by the court (or the attorneys) so that the court can determine whether he or she could be fair and impartial.

Here, the court asked the prospective jurors if they had strong feelings about the charged crimes and to stand if they did. Several prospective jurors stood in response to the court's question. For each of those, the court recorded the prospective juror's number, verified the juror's answer, and then asked the prospective juror if his or her strong feelings would interfere with his or her ability to be fair and impartial. After completing that process, the court held a bench conference and then struck everyone who had indicated that their strong feelings would affect their ability to be fair and impartial.[3]

We are not persuaded that the trial court abused its discretion in asking the questions as it did. Consistent with *Dingle*, *Pearson*, and *Collins*, the trial court presented a proper,

[3] To the extent that Collier is claiming that the trial court was required to conduct its follow-up questioning at the bench, we note that "Maryland law does not require the trial judge to question the venire at the bench." *Collins v. State*, 452 Md. 614, 627 (2017).

non-compound "strong feelings" question that did not require the prospective jurors to evaluate their potential biases before answering that question.

Collier's claim that, because the court "asked no follow-up questions[,]" it was unable to evaluate the jurors' ability to be fair and impartial is not supported by the record. Each prospective juror who had responded affirmatively to the court's "strong feelings" question was asked if his or her "strong feelings" would affect his or her ability to be fair and impartial. Clearly, the court's determination of whether the prospective juror could be fair and impartial was based on his or her response to the court's individual questioning.

II.

Collier's second claim of error is also related to *voir dire*. Prior to *voir dire*, Collier requested that the trial court ask prospective jurors if they would give more or less weight to a police officer's testimony (the "police witness" question). The trial court asked that question along with another question that asked whether the prospective jurors had experience with law enforcement (the "law enforcement" question) as follows:

> Now, ladies and gentlemen, as you know from the witness list that I just read to you, a number of the witnesses who will be called in this case are either members of the Baltimore City Police Department or are connected with them, like Firearm's Examiners. I would instruct you that a juror who sits in judgment in this case, just judge a police officer's testimony fairly and impartially. That it is [sic] would be a violation of a juror's oath and wrong to think well, that witness has a badge and a gun, they're more believable than other witnesses might be. Or likewise, the other side of the coin, that witness has a badge and gun, I don't believe police officers, they lie, I'm less likely to believe a police officer's testimony than another witnesses' testimony.
>
> So the next question has two parts, ladies and gentlemen. Please stand if your answer is yes to either part. Part one, have you or any family member or close personal friends ever been employed by a law enforcement agency

> like the Baltimore City Police Department, the County Police Department, the Maryland State Police Department, the Federal Bureau of Investigation, the Military Police. Stand if you or a family member or close personal friend has ever been employed by law enforcement.
>
> Likewise also stand if you are not able to abide by the Court's direction or instruction that you have to treat police officer's testimony fairly and impartially. So again stand if you or a family member or close personal friend has been employed by a law enforcement agency, also stand if you could not abide by the Court's instruction to treat police officer testimony fairly and impartially. All right.

Twenty-four prospective jurors stood in response. The trial court asked each of them if he or she had stood in response to the "law enforcement" question, the "police witness" question, or both. Some indicated that they had stood only in response to the police witness question. Several more indicated that they had stood in response to both questions. Ultimately, the court struck all jurors who had indicated that they could not judge a police officer's testimony fairly.

At the conclusion of that portion of the *voir dire*, defense counsel objected, arguing that the court should not have asked the two questions together. Defense counsel also objected to the court instructing the prospective jurors that they should not give more or less weight to a police officer's testimony. Counsel argued that the court's admonition may have "chilled" some of the jurors' willingness to respond to the "police witness" question that followed. The court overruled both objections.

The following day, prior to the start of the *voir dire* of the second pool of prospective jurors, defense counsel renewed her objections to the court's questions. The court overruled the objections and questioned the prospective jurors, as it had on the first day, by combining the "police witness" question and the "law enforcement" question.

Seventeen prospective jurors stood in response to the court's questions. The trial court asked each of them whether they had stood in response to the "police witness" question, the "law enforcement" question, or both. One prospective juror indicated that he had stood solely in response to the police witness question. Several others indicated that they had stood in response to both questions. As it had the first day, the court struck all jurors who had responded that they could not judge a police officer's testimony fairly.

Parties' contentions

Collier contends that the trial court abused its discretion by combining the "police witness" question and the "law enforcement" question because the questions "are designed to capture different concerns and should have been asked separately to avoid confusing the issues." He argues that, by combining the "law enforcement" question with the "police witness" question, the court undercut the more precise objective of the mandatory inquiry into police officer credibility and "made it easy for jurors to miss hearing the question entirely[.]" In addition, he argues that the trial court, by preceding the questions with an instruction about a juror's duty in evaluating a police officer's testimony, "signaled to the jury that the appropriate response [to the "police witness" question] was not to stand" and "chilled the ability of the potential jurors to stand in open court and admit to their beliefs."

The State contends that the trial court did not abuse its discretion because there was nothing confusing or chilling in the way the court posed the questions. It argues that the court's questions were not compound questions prohibited by the holding in *Dingle* and that they were presented in a clear manner that did not deprive Collier of a fair and impartial jury. Based on the seventeen prospective jurors who responded to the questions, it was

"self-evident," in the State's view, that the prospective jurors were not discouraged from answering truthfully.

Analysis

In Maryland, "the sole purpose of voir dire is to ensure a fair and impartial jury by determining the existence of cause for disqualification, and not as in many other states, to include the intelligent exercise of peremptory challenges." *Collins*, 452 Md. at 622 (citation and quotations omitted). And "a trial judge has broad discretion in the conduct of voir dire, especially regarding the scope and form of the questions propounded[.]" *Thomas v. State*, 454 Md. 495, 504 (2017). "The broad discretion that we accord judges in the conduct of voir dire and the rigidity of the limited voir dire process are tempered by the importance and preeminence of the right to a fair and impartial jury and the need to ensure that one is empaneled." *Collins*, 452 Md. at 623 (citation and quotations omitted). A trial court abuses its discretion "only when the *voir dire* method employed by the court fails to probe juror biases effectively." *Wright v. State*, 411 Md. 503, 508 (2009). On the other hand, "[v]oir dire is not a foolproof process," and "perfection in its exercise" is not required. *Thomas*, 454 Md. at 508 (citation and quotations omitted). To determine whether discretion has been abused, we look to the "questions posed and the procedures employed" to see if they "have created a reasonable assurance that prejudice would be discovered if present." *Id.* (citations and quotations omitted). In other words, "we evaluate the judge's

voir dire methodology to determine whether that discretion has been abused." *Williams v. State*, 246 Md. App. 308, 341 (2020).

We hold that the trial court did not abuse its discretion in asking the "police witness" question as it did. Collier requested and the court asked the question in conjunction with the "law enforcement" question. But the court in doing so made clear that that portion of the *voir dire* was in "two parts" and that prospective jurors were to stand if they answered yes to either inquiry. The court asked the "law enforcement" question first and the "police witness" question second. Then, after asking both questions, the court reiterated: "So again stand if you or a family member or close personal friend has been employed by a law enforcement agency, also stand if you could not abide by the Court's instruction to treat police officer testimony fairly and impartially." Ultimately, 41 prospective jurors stood in response to the court's two questions; five of those jurors indicated that they had stood solely in response to the "police witness" question; twelve indicated that they had stood in response to both questions.

That response creates a reasonable assurance that the procedures employed by the court would have discovered any prejudice related to "police witness" testimony if it were present. As the State correctly notes, the manner in which the court posed the two questions did not result in an improper "compound question." As discussed earlier, an improper compound *voir dire* question combines two questions such that prospective jurors must answer both questions in the affirmative before informing the court as to their answer. *E.g.*, *Collins*, 463 Md. at 377; *Dingle*, 361 Md. at 3-4. Here, the court made clear that each of the two questions was separate and that the prospective jurors were supposed to stand if

they answered either in the affirmative. That 24 stood in response to the "law enforcement" question, five in response to the "police witness" question, and 12 in response to both questions, indicates that the prospective jurors heard and understood the court's directive.

It is not inherently wrong to ask two questions back-to-back. On this point, *Wright v. State, supra*, is instructive. There, the trial court, during *voir dire*, posed seventeen questions to prospective jurors, in quick succession, without permitting any of them to respond to any of the questions until all the questions were read. *Wright*, 411 Md. at 506-07. The prospective jurors were then called to the bench one at a time and asked if they had any responses to any of the court's questions. *Id.* at 511-12. Our Supreme Court held in that case that the trial court's method of *voir dire* was an abuse of discretion. *Id.* at 512-15. The Court explained that the sheer bulk of the questions and the significant lapse in time between when the questions were asked and when each prospective juror was questioned at the bench almost certainly "obscured relevant information from the trial court's view" and therefore hindered the court's ability to ensure a fair and impartial jury. *Id.* at 512-15. The Court noted, however, that asking multiple questions in a row was not, in itself, an abuse of discretion:

> We are not suggesting that asking questions to a venire panel en masse is an inherently flawed procedure. In this case, it is the multiplicity of the questions that is problematic, not the means by which the questions are broadcast. The key to an effective voir dire is allowing venirepersons the meaningful opportunity to digest the individual questions posed to them and to respond fully to each one while the question is at the forefront of their minds.

Id. at 514.

The prospective jurors were not denied a meaningful opportunity to digest each of the two questions asked together and to respond accordingly in the case before us. Both questions involved or were related to law enforcement. Both were fairly concise and straight-forward. While they were posed in quick succession and the prospective jurors were required to stand only after hearing both questions, the questions were not particularly complex or hard to understand. Moreover, the court repeated each question twice to ensure that the prospective jurors had ample opportunity to hear each question, to comprehend the objective of each question, and to respond to each question accordingly. In short, we do not accept Collier's contention that the court's method of *voir dire* made it easy for the jurors to miss the questions and discouraged responses.

Nor are we persuaded that the trial court "chilled" the prospective jurors' responses by including an instruction about police-witness testimony prior to asking the "police witness" and "law enforcement" questions. Collier presents no support, either in fact or in law, indicating that instructing prospective jurors on their duties as jurors is improper prior to posing a "police witness" *voir dire* question. In some instances, setting forth the applicable law prior to posing a *voir dire* question is required. For example, in *Kazadi v. State*, 467 Md. 1 (2020), the Supreme Court of Maryland held that, upon request, a trial court must ask prospective jurors if they "are unwilling or unable to comply with the jury instructions on the presumption of innocence, the burden of proof, and the defendant's right not to testify." *Id.* at 47. To comply with that requirement, the Court explained, the trial court "should concisely describe the fundamental right at stake and inquire as to a prospective juror's willingness and ability to follow the trial court's instruction as to that

right." *Id.* That is essentially what the trial court did here. It instructed the prospective jurors as to their oath and obligation to assess a police witness's testimony fairly and impartially, and then asked if any were unwilling or unable to do so.

That the court did so prior to asking prospective jurors the "law enforcement" question was not, in our view, an abuse of discretion. Both parts of the two-part question related to a juror's possible bias in regard to police officers and law enforcement. Again, based on the responses, there is no indication that the court's instruction or its phrasing of the subsequent questions "chilled" the jurors' responses in any way or confused the issues.

III.

Collier's final claim of error concerns an issue that arose during the cross-examination of one of the State's witnesses. At trial, the witness stated that she was living with the victim, Mr. Brown, at the time of the shooting and that they both knew Collier from the neighborhood where they lived. She further testified that, approximately one month prior to Mr. Brown being shot, she had learned that Collier had been the victim of another shooting. Afterward, Collier had accosted Mr. Brown in her presence and had accused Mr. Brown of having been involved in that shooting. Mr. Brown was shot several weeks later.

On cross-examination, defense counsel asked her if Mr. Brown "carried a gun" and if the two of them "sold drugs together in the area[.]" She responded affirmatively to both questions. On redirect, the State asked her if she knew why Mr. Brown "was carrying a gun." She responded: "I guess for protection."

Later, the State called Baltimore City Police Detective Steven Fraser to testify regarding his investigation into the shooting of Mr. Brown. On cross-examination, defense counsel asked the detective if Mr. Brown "[h]ad been convicted of illegal gun possession[.]" The State objected, and the trial court, at a bench conference, asked defense counsel about the relevance of that question. Defense counsel argued that the State had elicited testimony that "sort of impl[ied] to the jury that Mr. Brown began arming himself . . . out of fear of Mr. Collier" and that she had a true test copy of Mr. Brown's 2015 conviction for illegal possession of a firearm. Finding that "the probative value of the evidence is outweighed by the prejudice that it causes[,]" the court sustained the State's objection. The court also stated that a true test copy of the conviction would be insufficient and that fingerprint evidence would be required to prove that Mr. Brown was the individual named in the true test conviction document.

Defense counsel then informed the trial court that she had planned on asking Detective Fraser "as to whether . . . Mr. Brown was a person of interest in a homicide, in a non-fatal shooting and in another non-fatal shooting." When the State objected on relevancy grounds, defense counsel proffered that the question was relevant to rebutting the State's insinuation that Mr. Brown began arming himself because of "the statement by Mr. Collier." Finding that the area of inquiry involved a "collateral issue" and "that the probative value of that impeachment is outweighed by the prejudice to the State in this case[,]" the court sustained the objection.

Parties' contentions

Collier contends that the trial court erred in precluding him from cross-examining Detective Fraser about Mr. Brown's alleged criminal history. He argues that the disputed evidence was directly linked to rebutting the State's insinuation that Mr. Brown carried a gun to protect himself from Collier. Citing his constitutional right to confront witnesses, Collier argues that the court erroneously excluded the evidence as prejudicial.

The State contends that the trial court properly exercised its discretion in limiting Collier's cross-examination of Detective Fraser. It argues that the victim's prior criminal history did not have the probative value claimed because the witness did not testify that Mr. Brown carried a gun to protect himself from Collier. And, even if the excluded evidence was minimally probative, the danger of unfair prejudice was significant because it would have only served to depict the victim as a person of bad character. Moreover, any abuse of discretion or error was harmless because the State never argued or indicated at trial that the victim had armed himself for protection from Collier.

Analysis

"A criminal defendant's right to cross-examine a prosecution witness is guaranteed by the Confrontation Clause of the Sixth Amendment, made applicable to the States through the Fourteenth Amendment, and Article 21 of the Maryland Declaration of Rights." *Holmes v. State*, 236 Md. App. 636, 671 (2018). "An undue restriction of the fundamental right of cross-examination may violate a defendant's right to confrontation." *Pantazes v. State*, 376 Md. 661, 681 (2003). To comply, "a trial court must allow a defendant a 'threshold level of inquiry' that expose[s] to the jury the facts from which

jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witnesses." *Peterson v. State*, 444 Md. 105, 122 (2015) (citations and quotations omitted).

That said, however, "a defendant's constitutional right to cross-examine witnesses is not boundless[,]" and a trial judge is not prevented "from imposing limits on cross-examination." *Pantazes*, 376 Md. at 680. Once a defendant's "threshold level of inquiry" is met, "the trial [judge] has considerable discretion to limit the scope of cross-examination to prevent, among other things, prejudice, confusion of the issues, and inquiry that is repetitive or only marginally relevant." *State v. Galicia*, 479 Md. 341, 359-60 (2022) (citation and quotations omitted). "When exercising their discretion, trial judges should balance a question's probative value against the danger of unfair prejudice." *Baires v. State*, 249 Md. App. 62, 97, *cert. denied*, 474 Md. 634 (2021). We review those decisions for abuse of discretion. *Id.*

"In deciding whether a piece of evidence is 'unfairly prejudicial' under the rules of evidence, this Court weighs the inflammatory character of the evidence against the utility the evidence will provide to the jurors' evaluation of the issues in the case." *Montague v. State*, 244 Md. App. 24, 39 (2019) (citation and quotations omitted). "[T]he nature of the evidence must be such that it generates such a strong emotional response from the jury such that the inflammatory nature of the evidence makes it unlikely for the jury to make a rational evaluation of the evidentiary weight." *Urbanski v. State*, 256 Md. App. 414, 434 (2022).

We perceive no abuse of discretion in precluding Collier from cross-examining Detective Fraser about Mr. Brown's alleged criminal history. Collier claims that the disputed evidence, which involved allegations that the victim had illegally possessed a firearm and was a person of interest in several shootings, was relevant to refute the witness's testimony that the victim had been carrying a gun to protect himself from Collier. But, as the State correctly notes, the witness did not give any such testimony, and the State never argued to the jury that Mr. Brown had armed himself to protect himself from Collier. In short, the victim's alleged criminal history had virtually no discernible probative value in this case. On the other hand, by portraying the victim as a violent person of bad character, the inflammatory nature of the evidence was significant. Having weighed the inflammatory character of the evidence against the utility that the evidence would have provided "to the jurors' evaluation of the issues in the case[,]" *Montague*, 244 Md. App. at 39 (citation and quotations omitted), we are persuaded that Collier was afforded the threshold level of inquiry required by the Confrontation Clause and hold that the court acted within its discretion in excluding the evidence.

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