Circuit Court for Baltimore City
Case No. 120350007

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 807

September Term, 2023

KHRISTOPHER JOHNSON

v.

STATE OF MARYLAND

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

JJ.

Opinion by Reed, J.

Filed: August 1, 2025

* This is an unreported opinion. This opinion 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).

On February 13, 2023, a jury sitting in the Circuit Court for Baltimore City convicted Khristopher Johnson ("Appellant") of first-degree murder, use of a firearm in a crime of violence, and possession of a firearm by a disqualified person in connection with the fatal shooting of Dondi Johnson.[1] Prior to trial, Appellant moved to suppress his statement to police on grounds that the statement was not voluntary. That motion was denied, and Appellant was convicted of all charges. Appellant was sentenced to life imprisonment with the possibility of parole for first-degree murder, a consecutive ten-year term for the use of a firearm, and a five-year term for the possession of a firearm, concurrent to the ten-year term. Appellant noted a timely appeal. In his appeal, Appellant presents two questions for appellate review:

I. Whether the court erred by denying the motion to suppress [his] statements on voluntariness grounds?

II. Whether the court abused its discretion by supplementing the pattern jury instructions on voluntariness?

For the following reasons, this Court affirms the judgment of the circuit court.

FACTUAL & PROCEDURAL BACKGROUND

The Investigation

On October 25, 2020, at approximately 2:12 p.m., Dondi was shot multiple times on the 3600 block of West Rogers Avenue in Baltimore City. The Baltimore City Fire Department transported Dondi to Sinai Hospital, where, following the unsuccessful

[1] Because multiple persons involved in the case share the surname, "Johnson," we shall refer to those individuals by their first names.

administration of life-saving measures, he was pronounced dead at 3:32 p.m.

Baltimore City Police Detective Marcus Sanders arrived at the 3600 block of West Rogers Avenue after Dondi had been transported to the hospital. Detective Sanders observed Dondi's vehicle, a blue Mazda, parked on the street with the engine running. The vehicle's windshield had been damaged by gunfire.

Detective Sanders obtained video footage from a convenience store surveillance camera that had captured the shooting. The video footage showed two men exit the convenience store together. One of the men was wearing a gray and white hoodie, dark jeans, white shoes and a black facemask. The second male was wearing a skull cap, jean jacket with sherpa lining, dark jeans, and tennis shoes. The two men walked to a GMC Envoy parked in front of a restaurant on the same block.

The video showed Dondi exiting the restaurant. The man in the gray and white hoodie exited the GMC Envoy and appeared to speak to Dondi. Dondi turned to walk back toward the convenience store when the man in the gray and white hoodie ran after him and shot him. Dondi fell to the ground in front of his car and the two men in the GMC Envoy drove away.

Traffic cameras and a license plate reader recorded the GMC Envoy traveling westbound on Rogers Avenue to Park Heights Avenue. Detective Sanders obtained a search warrant for the vehicle, and located the vehicle at the address on the registration. After some surveillance, the detective observed a woman and man exit the address and drive away in the GMC Envoy. Howard County Police conducted a traffic stop of the GMC Envoy. The passenger of the vehicle, Kyron Johnson, was wearing "the same black skull

cap, the same jean jacket with the Sherpa collar, and jeans" as the man in the video of the shooting.

Kyron was brought to Baltimore City Police Department Homicide Unit for an interview. During the interview, Kyron identified his brother, Appellant.

Police Interview of Appellant

On November 17, 2020, Appellant was arrested for the murder of Dondi and brought to the Baltimore City Police Department Homicide Unit to be interviewed. The two-hour video of Appellant's interview and the transcript of the interview were admitted into evidence at the suppression hearing.

Detective Sanders and Detective Steven Fraser[2] advised Appellant of his *Miranda* rights. Appellant completed the *Miranda* form, waiving his rights. The detectives began the interview by asking Appellant about his activities on the day of the shooting. Appellant initially denied that he was on the scene at the time of the shooting, claiming instead that he was at Walmart with his family. The detectives disputed Appellant's claim, and showed him photos taken from the video surveillance footage of the convenience store. Appellant denied that he was the man in the photos and denied shooting Dondi.

The detectives then informed Appellant that Kyron had identified him as the shooter during his interview with police:

> DETECTIVE: I'm about to hurt your feelings right now and I'm not trying to be that type of guy, ok? I'm trying to be straight up with you and you want to bullshit us, okay? End of the day, you know why you're here and it's not because of the damn fingerprint. You know why you're here. That's why you're here. Let's stop fucking around, [Appellant].

[2] ***See*** **spelling on Exh.1 Title page.**

[APPELLANT]: This is why I'm here? What (indiscernible) –

DETECTIVE: That's why you're here. You know what I'm saying.

[APPELLANT]: What are you saying?

DETECTIVE: Do I need to be explicit?

[APPELLANT]: Be explicit.

DETECTIVE: Your brother told us it was you. Yes.

[APPELLANT]: That's a lie.

DETECTIVE: It's not.

[APPELLANT]: No, I'm saying he's lying on me.

DETECTIVE: He's -- your brother's going to lie on you? Your brother's going to lie on you?

* * *

[APPELLANT]: So you telling my brother said --

DETECTIVE: You're repeating everything we say. Yes, we're telling you that.

[APPELLANT]: Where's the paperwork?

DETECTIVE: What paperwork?

[APPELLANT]: Where's the –

DETECTIVE: So I'll bring in the paperwork and then what? Are you going to admit it? What are you going to [s]ay? Oh, he's lying?

[APPELLANT]: I'm not going to admit to something –

DETECTIVE: (Indiscernible) right?

[APPELLANT]: – I didn't do.

Appellant did not believe that the police had spoken to Kyron and that Kyron had identified him as the shooter. According to Detective Sanders, Appellant appeared "very upset" at the news that his brother had identified him. Detective Sanders considered Appellant's reaction to be a normal one, and he did not have any concerns that Appellant was so overly distraught or mentally impaired that he was unable to continue the interview.

Appellant asked multiple times to see the video of Kyron's interview. Detective Sanders told Appellant that he would get to see the video in court. Appellant was adamant that he would not believe that his brother had identified him unless he saw Kyron's interview. Detective Sanders did not want Appellant to see the video because he did not want him to adjust his story "to fit with the video" after he watched it.

The detectives encouraged Appellant to tell them his side of the story. Appellant asked the detectives, "If I tell you what happened, what the fuck would that do for me?" The detectives responded that they were "not in a position to make a deal with [Appellant] at all[,]" but that in the case of a murder trial, "[t]hey look at all of the circumstances."

Appellant described his interaction with Dondi, explaining that he acted in self-defense:

DETECTIVE: So who is he?

(Pause.)

[APPELLANT]: **Yo was trying to kill me.**

DETECTIVE: Explain.

[APPELLANT]: **You going know what he's – his last words to me was?**

DETECTIVE: Yes.

[APPELLANT]: Probably ain't even going to believe me. Because, like I said, I ain't no killer. I ain't no murderer. I'm a family man. And I do whatever to see my family, as any man would. You'd do the same thing.

DETECTIVE: I agree with you.

[APPELLANT]: Him and a bunch of other n*****s that be with him – he was going to his car to grab a gun and kill me.

DETECTIVE: What did they say to you, [Appellant]?

[APPELLANT]: That conversation that you – all right. I want you all to be a hundred percent honest with me and I'll be a hundred percent honest with you.

DETECTIVE: I got no reason to lie to you, [Appellant].

DETECTIVE: I'm going to put the page right here (indiscernible) right at the top. Proof. That's what I'm going to write.

[APPELLANT]: No. You don't got to do all that. I mean, we not kids, man. We grown ass –

DETECTIVE: I'll leave it alone.

DETECTIVE: Go ahead. What's your question?

[APPELLANT]: **Can I see this statement and I promise you I will tell you everything. …**

Appellant continued to ask for proof of Kyron's statement. He stated that he wanted to see the statement for his "own sanity." The detectives offered to show Appellant a photo of the interview, but Appellant insisted on seeing the video. The detectives told him that they did not "have a problem showing it to [him]," but it was "going to break [his] heart to hear [Kyron] say the things that he said." Appellant agreed to tell the detectives "everything" if the detectives showed him Kyron's statement.

Detective Sanders left the room to get the video of Kyron's statement and Detective Fraser commented, "I'm just wondering what he's going to grab because I personally wouldn't show you that." Appellant asked to make a phone call, which Detective Fraser declined, stating that they were already fulfilling one of his requests. Detective Sanders returned to the interview room and placed his phone on the table and told Appellant that "[t]he video is right here just waiting to press play." He told Appellant that if he told the detectives what happened, he would let Appellant watch the video.

Appellant explained that Dondi thought he was selling drugs on the corner, which was not the case. He said that he had no intention of killing Dondi, but Dondi knocked on the car window and told Appellant that he had "something for [him]." Dondi turned around to walk to his car, which Appellant "took as a threat" that Dondi "was going to kill [him]." Detective Sanders testified that he did not use the video to elicit information from Appellant. He stated that he wanted to see if Appellant would talk first before seeing the video, but he did, in fact, plan to show Appellant the video.

After Appellant explained the circumstances of the shooting, the detectives played a portion of Kyron' statement for him. Appellant told the detectives that he "felt as though it was justified but it ain't no … justification for killing somebody, no matter what the fuck it is."

Circuit Court's Findings

The court reviewed the entirety of Appellant's interview, consisting of approximately two hours and forty minutes of video. There was no dispute that Appellant was in custody at the time of the interview. The court found Detective Sanders to be a

credible witness who testified truthfully, though the court "disagree[d] with some of his conclusions."

The circuit court considered whether, under the totality of circumstances, the State demonstrated by a preponderance of the evidence that Appellant's statements were voluntary. The court focused on the "key question" of whether there was something in Appellant's condition and frame of mind made it impossible for him to exercise his free will to make a statement voluntarily, or whether he gave his statement as a result of some "improper promise or implication of special consideration, which the law does no[t] approve[.]"

The circuit court noted that it was clear from the videotape that Appellant was given his *Miranda* rights and that he understood them. The court noted that Appellant's physical condition was good and he did not appear to be intoxicated or under the influence of any substance. Each of Appellant's requests for food, water, and cigarettes was fulfilled.

The court considered whether Detective Sanders' use of Kyron's statement and Appellant's desire to hear it before he gave any further statement was coercive, and the court found that it was not. The court noted that throughout the interview, Appellant made genuine requests for the statement. The court found that Appellant's "mental state, as a result of finding out that his brother had made a statement against him" was not "so emotional or so upset that he was unable to exercise his own will." The court found that the detectives used Kyron's statement as a "pressure point" to elicit his statement:

> [I]t is quite clear to me that the detectives, as they were going along, were making a decision about whether ultimately to play [Kyron]'s statement for his brother and were using it in order to apply pressure to [Appellant] to

> give them a statement. Otherwise, they would have abandoned the task much earlier and they wouldn't have brought the recording device in and acted as they did.
>
> But I find that it was not undue pressure. First, because they consistently told [Appellant] that he would get the statement ultimately in court. That he would have a chance to review it. That it could not be withheld from him. And that what they were really doing was withholding it from him immediately until he was willing to make a fuller statement.
>
> And I find that is within the realm of appropriate technique for the detectives and that they did not apply undue pressure or influence or coercive pressure to [Appellant] to get him to make a further statement.
>
> I will admit both statements. But I also agree with the State that whatever is thought about putting the device in front of [Appellant] and telling him – making it imminent that he could hear [Kyron]'s statement, he began to make statements implicating himself in the murder – in the killing, even before that step was done by the detectives at the earlier point in the transcript.

Under the totality of the circumstances, the court ruled that Appellant's statements to the detectives were voluntary and not subject to suppression.

DISCUSSION

Motion to Suppress

A. Parties' Contentions

Appellant contends that the State failed to prove that his statements were voluntary under Maryland law. He asserts that the detectives improperly induced him to confess by promising to show him Kyron's statement. He argues that a reasonable person in his position would have been moved to confess upon hearing that the detectives had a video of his brother telling the police that he had committed murder.

Alternatively, Appellant argues that the circuit court resolved only the constitutional

issue and failed to make the required findings under Maryland common law. He asserts that the court found that the detectives attempted to induce his confession using Kyron's statement, but the court did not make a finding as to whether the inducement would have moved a reasonable person to confess, nor did it state whether Appellant relied on the inducement in making his confession.

The State responds that that the circuit court decided the motion to suppress on both constitutional and common law grounds. The State further argues that Appellant's statements were voluntary under Maryland common law because the conditional offer for him to see Kyron's statement was not related to a promise of leniency. Specifically, the State argues that based on the circuit court's finding as to the first prong of the Maryland common law test that the detectives did not make a promise or inducement to Appellant, there was no need for the circuit court to make a finding on the second prong of the test.

B. Standard of Review

The trial court's determination of whether a confession was made voluntarily is a mixed question of law and fact that we review *de novo*. *Brown v. State*, 252 Md. App. 197, 234 (2021). Our review of the trial court's ruling on a motion to suppress is limited to the record of the suppression hearing. *Angulo-Gil v. State*, 198 Md. App. 124, 137 (2011) (citing *Knight v. State*, 381 Md. 517, 535 (2004)). "We view the evidence and inferences that may be drawn therefrom in the light most favorable to the party who prevails on the motion." *Moats v. State*, 455 Md. 682, 694 (2017) (quotation marks and citation omitted). We review the suppression court's factual findings for clear error, and we review the suppression court's legal conclusions *de novo*. *Sizer v. State*, 456 Md. 350, 362 (2017).

C. Analysis

Under Maryland common law, a confession must be voluntary to be admissible. *Hill v. State*, 418 Md. 62, 74 (2011). In order for a statement to be considered voluntary, it "must satisfy federal and state constitutional strictures as well as the Maryland common law rule that a confession is involuntary if it is the product of an improper threat, promise, or inducement by the police." *Id*.

In *Hill*, the Supreme Court of Maryland elaborated on the two-prong analysis to be utilized for determining the voluntariness of a statement, originally set forth in *Hilliard v. State*, 286 Md. 145, 153 (1979). The first prong is an objective one: "whether a reasonable layperson in the position of [Appellant] would have inferred from [the detectives'] statement that he could gain the advantage of non-prosecution or some other form of assistance," by giving a confession. *Id.* at 78. If the suppression court finds an improper inducement, then under the second prong of the analysis, the court must determine "whether the accused relied on that inducement in making the statement he or she seeks to suppress." *Id*. at 77. Specifically, "whether there exists a causal nexus between the inducement and the statement." *Id*. (quotation marks and citation omitted). "Factors relevant to the reliance analysis include the amount of time that elapsed between the improper inducement and the confession; whether any intervening factors, other than the officer's statement, could have caused the confession; and the testimony of the accused at the suppression hearing related to the interrogation[.]" *Id.* (internal citations omitted).

Confessions that are "the result of police conduct that overbears the will of the suspect and induces the suspect to confess" are prohibited. *Lee v. State*, 418 Md. 136, 159

(2011). But not "all promises, threats, or inducements render a confession involuntary; instead the federal constitution requires only that courts consider promises, threats, or inducements as part of the totality of the circumstances that courts must look at to determine voluntariness." *Id*. at 160 (quotation marks and citation omitted).

Appellant asserts that Detective Sanders and Detective Fraser improperly "dangled" Kyron's statement before him, inducing him to talk. We are not persuaded. We agree with the trial court that the detectives used Kyron's statement to pressure Appellant to confess, but that pressure fell short of coercion. Detective Sanders told Appellant that he would get to see Kyron's statement in court. *Harper v. State*, 162 Md. App. 55, 75 (2005) ("When an interrogating officer promises to do something that as a matter of routine is done for all suspects, there is no special consideration, and the promise therefore is not improper").

Detective Sanders' assurance that he would show Kyron's interview to Appellant was not a promise of a benefit to Appellant, and it was neither improper nor coercive. *See Winder v. State*, 362 Md. 275, 311 (2001) (requiring that a promise or offer must be contained within the substance of the officer's eliciting statement); *see also Brown*, 252 Md. App. at 238-39 (holding that the detectives' statements that they wanted to "help [Brown] out" and that regardless of what he told them, he would not be arrested were not "express or implied promises … of special consideration … or some other form of assistance in exchange for his confession") (internal quotations and citation omitted).

Because we conclude that the detectives did not make any improper promises or offers of special consideration, we need not proceed to the second prong of the analysis, specifically whether Appellant's inculpatory statements were made in reliance on such

improper inducement. *See Brown*, 252 Md. App. at 241 (holding that where State satisfied the first prong of the analysis by proving that the detectives did not make any improper promises to Brown, the second prong of the analysis need not be addressed). Accordingly, we conclude that the trial court did not err in its determination that Appellant's statement was voluntary, and the trial court did not err by failing to address the subjective question of reliance in the common law analysis of voluntariness.

Jury Instruction on Voluntariness

A. Parties' Contentions

Appellant contends that the trial court abused its discretion by modifying the pattern jury instruction as to voluntariness. He concedes that he failed to object following the giving of the modified instructions, but he argues that he substantially complied with the preservation requirement by objecting prior to the instructions and that a second objection after the instructions would have been futile. Alternatively, assuming that Appellant did not substantially comply with the preservation rule, he urges us to exercise plain error to reach the merits of his challenge. He argues that the court's error in modifying the voluntariness instructions critically impaired his right to a fair trial by erroneously conveying to the jurors that the detectives' behavior did not amount to improper inducement.

The State argues that Appellant not only failed to preserve his objection to the trial court's modified instructions by failing to object to the instructions after the court instructed the jury, he affirmatively waived his objection by indicating to the trial court that he had no objection to the instructions as given. The State further contends that

Appellant's pre-instruction objection was insufficient to establish substantial compliance with the preservation requirement of Rule 4-325(f), because he provided a general objection to the substance of the instructions after the trial court requested a specific objection.

B. Standard of Review

Rule 4-325(c) provides that "[t]he court may, and at the request of any party shall, instruct the jury as to the applicable law[.]" We review a trial court's decision to give a jury instruction under an abuse of discretion standard. *Rainey v. State*, 480 Md. 230, 255 (2022). In determining whether a trial court abused its discretion in giving an instruction, a reviewing court considers: "'(1) whether the requested instruction was a correct statement of the law; (2) whether it was applicable under the facts of the case; and (3) whether it was fairly covered in the instructions actually given.'" *Bazzle v. State*, 426 Md. 541, 549 (2012) (quoting *Stabb v. State*, 423 Md. 454, 465 (2011)).

C. Analysis

During the jury instruction conference, the trial court provided the parties with written supplemental jury instructions on the issue of voluntariness. The court expressed concern that the pattern instruction on voluntariness did not distinguish, as the case law did, between those promises or offers that are not, as a matter of law, improper inducements, and those that are. The court explained that the supplemental instructions, which were the court's 'invention" addressed the issues of a promise, or offer of a promise, concerning Kyron's statement, and the testimony about "trickery" or "subterfuge[.]"

Defense counsel commented that some of the instructions proposed by the trial court

were "very creative and very appropriate and then some of it … [was] covered [by the Maryland Pattern Jury Instructions on voluntariness]." Defense counsel stated that the proposed instructions may expand "on the pattern instruction possibly a little too much." Defense counsel objected to the proposed instructions, stating that "in an abundance of caution I would probably suggest that the pattern instruction as stated is sufficient."

The court asked defense counsel whether any of the supplemental instructions was not consistent with Maryland law. Defense counsel responded by noting an objection "for the record." The court found that the supplemental instructions were consistent with Maryland law, were generated by the evidence, and would be helpful to the jurors.

The court instructed the jury as to voluntariness as follows:

> You have heard evidence that the [d]efendant made a statement to the police about the crimes charged. The State must prove beyond a reasonable doubt that the statement was voluntarily made. A voluntary statement is one that under all circumstances was given freely.
>
> To be voluntary a statement must not have been compelled or obtained as the result of any force, promise, threat, inducement, or offer of reward.
>
> If you decide that the police used force, a th[r]eat, a promise or inducement or an offer of reward to obtain [d]efendant's statement then you must find that the statement was involuntary and disregard it unless the State has proven beyond a reasonable doubt that the force, threat, promise or inducement or offer of reward did not in any way cause the [d]efendant to make the statement.
>
> **A promise by law enforcement in the course of questioning is improper if it involves a promise or offer of some benefit or advantage in the possible prosecution of the [d]efendant in exchange for making the statement.**
>
> If you do not exclude the statement for one of these reasons you must then decide whether it was voluntary under the circumstances.

> **When questioning someone the police are permitted to use trickery or subterfuge to obtain a statement. Whether the nature and the extent of the trickery or subterfuge used is permissible depends on all of the circumstances.**
>
> **The ultimate question for you is whether the techniques used by the detectives in these circumstances were such that they overcame the [d]efendant's voluntariness and caused him to make statements that were not voluntary at the time he made them.**
>
> **Again, the State has the burden to prove beyond a reasonable doubt that the [d]efendant's statements were made voluntarily.**
>
> In deciding whether the statement was voluntary, consider all of the circumstances surrounding the statement including the conversations, if any, between the police and the [d]efendant, whether the [d]efendant was advised of his rights, the length of time that the [d]efendant was questioned, who was present, the mental and physical condition of the [d]efendant, whether the [d]efendant was subjected to force or threat of force by the police, the age, background, experience, education, character, and intelligence of the [d]efendant, and any other circumstances surrounding the taking of the statement.
>
> If you find beyond a reasonable doubt that the statement was voluntary give it such weight as you believe it deserves. If you do not find beyond a reasonable doubt that the statement was voluntary you must disregard it
>
> **(emphasis added to highlight supplemental instructions)**

After instructing the jury, the court asked the parties if they had any objections. The State and defense counsel responded, "No."

Maryland Rule 4-325(f) states that "[n]o party may assign as error the giving or the failure to give an instruction unless the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection." The purpose of the rule is "to give the trial court an opportunity to correct its charge if it deems correction necessary." *Jones v. State*, 240 Md. App. 26, 36 (2019)

(quotation marks and citation omitted). The Supreme Court of Maryland has explained that "[u]nless the attorney preserves the point by proper objection after the charge, or has somehow made it crystal clear that there is an ongoing objection … the objection may be lost." *Sims*, 319 at 549.

An objection may be deemed continuing if the objection was made before instruction and restating it after instruction would be futile, but "these occasions represent the rare exceptions[.]" *Id*. "[C]ounsel need not make a precise objection after the instructions are read to the jury when the ground for objection is apparent from the record and the circumstances, ... such that a renewal of the objection after the court instructs the jury would be futile or useless." *Houghton v. Forrest*, 183 Md. App. 15, 31 (2008) (quotation marks and citations omitted), *aff'd in part, vacated in part on other grounds*, 412 Md. 578 (2010).

"[T]he rule that parties must object to instructions after they are given is not an absolute requirement." *Montague v. State*, 244 Md. App. 24, 59 (2019). If it is clear from the record that the trial court understood the objection and, upon understanding the objection, rejected it, we will consider the issue preserved for appellate review. *Id.* For a party to establish substantial compliance with Rule 4-325(f), the following conditions must be satisfied:

> There must be an objection to the instruction; the objection must appear on the record; the objection must be accompanied by a definite statement of the ground for objection unless the ground for objection is apparent from the record[,] and the circumstances must be such that a renewal of the objection after the court instructs the jury would be futile or useless.

Montague, 244 Md. App. at 60 (quoting *Bowman v. State*, 337 Md. 65, 69 (1994).

In *Robinson v. State*, 209 Md. App. 174, 202 (2012), *overruled on other grounds by Dzikowski v. State*, 436 Md. 430 (2013), the defendant objected to the inclusion of the word "reckless" in a jury instruction for second-degree assault with no explanation of the basis for his objection. Even after defense counsel acknowledged that the instruction containing the word reckless came "straight out of the book," he stated: "I don't want it in there." *Id*. at n.9. The defendant did not object to the instruction after it was given to the jury. *Id*. at 199. We determined that the defendant's objection to the instruction did not constitute substantial compliance with Rule 4-325(f) because he did not explain his reasons for the objection and there seemed to be some confusion on the part of the trial judge as to whether the defendant acquiesced in the instruction. *Id*. at 201. We concluded that the record in that case did not demonstrate "that renewal of the objection after the court instructed the jury would have been futile or useless." *Id.*

We also noted in *Robinson*, that the defendant raised several arguments on appeal challenging the jury instruction that he did not raise before the trial court. *Id*. at 202. Specifically, he argued that the reference in the instruction to both "intentional" and "reckless" conduct was improper because it was duplicitous, allowing "the presentation of 'inconsistent theories,' which had a 'confusing effect upon the jury[,]'" depriving him of due process. *Id*. at 198. Because the defendant did not assert those arguments in the trial court, we decided that they were not preserved for review. *Id*. at 202.

Here, Appellant failed to articulate the basis of his objection to the proposed supplemental instructions. When pressed by the circuit court as to whether the proposed

supplemental instructions were inaccurate or inconsistent with Maryland law, defense counsel expressed his preference for the pattern jury instructions and simply noted his objection for the record. Appellant did not argue in the trial court, as he does on appeal, that the court's distinction between "proper" and "improper" inducements "intruded on the jury's factfinding mission to determine whether there was a promise or inducement … ." In this case, we conclude that Appellant did not substantially comply with the preservation requirement of Rule 4-325(f). *See Perry v. State*, 344 Md. 204, 242 (1996) (where petitioner raised an argument on appeal challenging the jury instruction on a basis not raised at trial, petitioner's arguments operated to "sandbag the trial court" and violated the preservation rule). Accordingly, Appellant's challenge to the supplemental jury instructions is not preserved for review.

Appellant requests that we review the court's instruction for plain error. We decline to do so. In order for this Court to undertake a review for plain error, four conditions must be met: (1) there must be an error or defect that has not been waived or abandoned; (2) the legal error must be clear or obvious; (3) the error must have impacted the outcome of the court proceedings; and (4) the error must affect the fairness, integrity or public perception of the proceedings. *Newton v. State*, 455 Md. 341, 364 (2017). Our discretion to exercise plain error review is reserved for the most "compelling, extraordinary, exceptional or fundamental" circumstances. *Robinson v. State*, 410 Md. 91, 111 (2009).

In this case, the alleged error was waived. In any event, we perceive no error in the trial court's supplemental instruction. The supplemental instruction was a correct statement of the law and applicable to the facts of the case. "The trial judge need not follow

the precise scope of the requested instruction. He [or she] may modify it so as to be a definitive statement of the pertinent law." *Smith v. State*, 66 Md. App. 603, 621 (1986). *See also Mason v. State*, 12 Md. App. 655, 667 (1971) (explaining that a given instruction will be deemed adequate so long as it "captures the fair essence of the point to be conveyed"). Specifically, the supplemental instruction regarding the use of trickery and subterfuge, as Appellant concedes, was accurate. There was no evidence in the record to support Appellant's contention that the instruction somehow misguided the jury to consider any police deception separate from the other circumstances of the interrogation in determining whether Appellant's statement was voluntary. The judge instructed the jury to consider "all of the circumstances surrounding the statement" and advised them that the State has the burden to prove beyond a reasonable doubt that the statement was voluntary.

CONCLUSION

We hold that the trial court did not err in denying Appellant's motion to suppress. We further hold that Appellant failed to preserve his challenge to the supplemental jury instructions and the circumstances of this case do not warrant plain error review. As a result, we affirm the judgment of the Circuit Court for Baltimore City.

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