Circuit Court for St. Mary's County
Case No.: C-18-CR-23-000407

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 946

September Term, 2024

JOSHUA TRIPPETT

v.

STATE OF MARYLAND

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: December 12, 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).

Appellant, Joshua Trippett, was indicted in the Circuit Court for St. Mary's County, Maryland, and charged with kidnapping and false imprisonment. A jury convicted him on both counts, and Appellant was subsequently sentenced to twelve years' incarceration for kidnapping, with the false imprisonment count merged at sentencing. On this timely appeal, Appellant asks us to address the following questions:

1. Is the evidence insufficient to support Mr. Trippett's convictions?
2. Did the trial court err in denying Mr. Trippett's motion for a new trial based on a juror's non-disclosure during voir dire?

We answer "no" to both questions and affirm.

BACKGROUND

On November 16, 2023, at around 6:30 p.m., Daequan Chappelle, a sales representative at the Lexington Park Ford-Lincoln dealer on Route 235, assisted an individual who approached the lot and asked to test-drive a vehicle. The man had a book bag and what appeared to be a "black money bag," or a "bank bag," and he said he wanted to buy a car for cash. Based on the man's budget of around $15,000 or less, Mr. Chappelle suggested a dark-blue two-door 2015 Hyundai Genesis coupe. The man said he wanted to test-drive that vehicle, so Mr. Chappelle took the man's driver's license to copy inside the dealership. Mr. Chappelle testified that he was already assisting another customer when the man walked up, so he asked Jason Peterson, another sales representative at the dealership, to take this individual on a test drive. Mr. Peterson then

copied the man's driver's license, went outside, verified that the man matched the license, and then returned it to him.[1]

After that, Mr. Peterson and Appellant got into the vehicle. Mr. Peterson noticed that Appellant had a black bag. He further testified he was informed that Appellant "possibly had cash," but Mr. Peterson never saw what was inside the bag. As they entered the vehicle, Appellant got in the driver's seat and put the bag behind the passenger seat. Mr. Peterson joined him for the test drive in the front passenger seat.

Mr. Peterson testified that he told Appellant that they would take the car on their "normal route" for the test drive.[2] Mr. Peterson testified that they pulled out of the dealership heading south on Route 235 and that he informed Appellant that the normal route was to drive south on 235 to either Buck Hewitt Road or Pegg Road and then "make a big circle[.]" However, instead of following the normal route, Appellant made a quick U-turn and then started heading north on Route 235.[3]

[1] Although neither of them directly identified Appellant in court, both Mr. Chappelle and Mr. Peterson testified that the man they encountered matched the man depicted on the driver's license in evidence. Detective Andrew Burgess would later positively identify Appellant as the man depicted on the driver's license.

[2] Mr. Chappelle also confirmed that test drives are ordinarily conducted "within the local area[.]"

[3] Using Google Maps, we take judicial notice that Buck Hewitt Road is located 0.6 miles from the dealership on Route 235 and Pegg Road is located 1.7 miles from the dealership. *See* Md. Rule 5-201; *Ray v. Mayor & City Council of Balt.*, 203 Md. App. 15, 34–35 (2012) (using MapQuest to measure distance, including driving distance, between residence and proposed development to determine whether party had standing to object to development), *aff'd*, 430 Md. 74 (2013); *Cobrand v. Adventist Healthcare, Inc*., 149 Md.

(continued)

At the Hollywood St. John's light, Mr. Peterson testified there was an accident in the roadway with a police officer on site assisting. Appellant "almost rear[-]end[ed] the car in front of us and then burn[ed] tires" as he kept on driving north.[4]

At that point, Mr. Peterson told Appellant, "we can go ahead . . . *it's a good time to go ahead and start heading back to the dealership* at the next U-turn just past that light." (Emphasis added.) Asked by the prosecutor if Appellant did so, Mr. Peterson testified, "*No, he kept going*." (Emphasis added.) Appellant told Mr. Peterson that "he wanted to take this car for a drive and see how it does."

Mr. Peterson continued that he told Appellant a second time to turn around at the light near the Hollywood Burchmart, testifying that "I had mentioned to him again, you know, *we can go ahead and turn the car around and head back to the dealership*. At this point, we're already, like, five miles from the dealership, which is a pretty good, you know, test drive."[5] (Emphasis added.) Mr. Peterson testified that he told Appellant a third time to turn around:

> Q. And *did he say anything back to you when you told him to turn it around at the Hollywood Burchmart light*?
>
> A. *Nothing then*. But we went through it, and then I had mentioned it to him again that it was time to go ahead, and this time I was, you know, getting kind of agitated because *he wasn't listening to me. And then he just told me*

App. 431, 442 n.7 (2003) (using MapQuest to compare travel time between a residence and courthouses).

[4] According to Google Maps, the St. John's Road light in Hollywood is 5.1 miles from the dealership.

[5] According to Google Maps, the Hollywood Burchmart is located 6.2 miles from the dealership.

> *to stop being a d**k, that he wanted to drive the car, and he was trying to buy the car.*

(Emphasis added.) Mr. Peterson testified that he told Appellant a fourth time to turn around, testifying as follows:

> Q. Okay. And what was your response?
>
> A. At this point, I was kind of fearing on what was really happening because he was on the phone, and I didn't know what was going on or where we were going. So I told him -- I was like, you know, I don't really care, at this point, if you want to purchase this vehicle. *You're not listening to me. We need to go back to the dealership, or you need to pull over.*
>
> Q. *And did he listen to you at that moment?*
>
> A. *No, he did not.*
>
> Q. All right. And what was -- what was his driving like while in the vehicle?
>
> A. So as soon as we got past the Hollywood Burchmart light, we were doing excessive speeds of 80, 90 miles an hour in and out of traffic. I mean, I was holding onto the door handle because, you know, I was scared.

(Emphasis added.)

As the drive continued, Mr. Peterson overheard Appellant talking to an unidentified individual on the cellphone, "saying something about meeting somebody up at Charlotte Hall Wawa[.]" Hearing that, Mr. Peterson told Appellant "there is no need for us to be going all the way to the Wawa in Charlotte Hall, that we were already far enough for our test drive." However, Appellant did not turn the vehicle around, and instead, said nothing to Mr. Peterson, continuing to talk to the unidentified individual on the phone.[6]

[6] The Wawa in Charlotte Hall is located 22.5 miles from the dealership according to Google Maps. There was also testimony from Detective Andrew Burgess that, as the "bird flies," the Wawa is located between sixteen and seventeen miles from the

(continued)

Mr. Peterson continued to plead with Appellant as he drove erratically northbound on 235. Mr. Peterson told him not to speed and that "this was not his car and, you know, we could get pulled over." Mr. Peterson testified that Appellant did not comply and instead, responded by handing over the key fob to the vehicle. This did nothing to stop the car as Mr. Peterson testified that the vehicle was a "push-start system."

Mr. Peterson maintained throughout his entire testimony that he repeatedly told Appellant he needed to return to the dealership, testifying towards the end of direct examination that he told him, "You should not be doing this. And you need to listen to me, and we need to go back to the dealership." As indicated, Appellant did not comply and either simply ignored Mr. Peterson or told him to "stop being a d**k" as he continued driving northbound to Charlotte Hall at a high rate of speed.

Mr. Peterson was asked several questions concerning whether he could have alerted anyone or stopped Appellant somehow. Mr. Peterson explained that he did not have his cellphone with him as he had left it charging on his desk at the dealership. Asked by the prosecutor why he did not pull the manual hand emergency brake, Mr. Peterson replied that, considering the excessive speed, he did not want to cause an accident. Asked why he did not "try to overpower him," Mr. Peterson replied, "*I was fearful because I didn't know what was really in that bag that he had*." (Emphasis added.) Asked why he

dealership. Detective Burgess added that the Wawa was located north on 235 approximately ten miles from the Hollywood Burchmart and eleven miles from St. John's Road.

did not jump out of the moving car, Mr. Peterson replied "[b]ecause I probably would have died." Mr. Peterson added:

> I was fearful on, you know, am I really going to make it back this evening? I didn't know where we were going. I didn't know who he was talking to on the phone, where we were meeting up, if something was going to be happening when we got there. I had a hundred different scenarios going on in my head and feelings. And I just wanted to make it back to my wife and kids.

Eventually, Appellant stopped the vehicle at the Wawa in Charlotte Hall. After a brief discussion about parking the vehicle and whether Appellant knew how to put the car in reverse, Appellant got out, grabbed his bag out of the backseat floorboard and, according to Mr. Peterson, "disappeared." Mr. Peterson later saw Appellant get into an unidentified white van waiting nearby. Mr. Peterson then drove the Hyundai Genesis back to the dealership. He agreed he did not call his coworkers or 911 at the Wawa because he was "worried and scared" and just wanted to get back to the dealership.

We shall include additional detail in the following discussion.

DISCUSSION

I. Sufficiency of Evidence

Appellant first contends the evidence was insufficient to sustain his convictions for kidnapping and false imprisonment. Appellant argues there was no evidence that Mr. Peterson was restrained, or that Appellant intended to confine him against his will. Appellant continues that, even assuming *arguendo* Appellant deceived anyone, he deceived the dealership, not Mr. Peterson, and, at most, any confinement of Mr. Peterson was incidental to Appellant's unauthorized use of a vehicle.

The State disagrees and notes that: (1) Appellant refused to comply with Mr. Peterson's demands that he return to the dealership; (2) Mr. Peterson did not escape because the car was moving at excessive speeds and Mr. Peterson did not know where he was being taken; (3) Appellant drove at least seventeen miles from the dealership in Lexington Park to the Charlotte Hall Wawa, a distance far exceeding a normal test drive; and (4) Appellant's argument that this incident was, at most, unauthorized use of the car fails to recognize that Appellant had the car and could have left without Mr. Peterson and that Mr. Peterson's presence furthered the deception. The State concludes,

> Despite [Mr.] Peterson's response that the test drive had gone on long enough, and there was no need to go all that way, [Appellant] continued his course to the Wawa. And, despite [Mr.] Peterson's request to slow down and "control the driving," [Appellant] utilized his driving—erratic and, often, at a high rate of speed—to detain [Mr.] Peterson in the vehicle.

As will be explained, we hold that there was sufficient evidence for the jury to find that, although Mr. Peterson may have initially consented to accompany Appellant on the test drive, that consent was clearly revoked. Furthermore, Appellant's subsequent refusal to return to the dealership demonstrated that the encounter was against Mr. Peterson's will and lacked any legal justification, all of which established Appellant's guilt of false imprisonment and kidnapping beyond a reasonable doubt.

In considering a challenge to the sufficiency of the evidence, we "examine the record solely to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Beckwitt*, 477 Md. at 429. Further, "we view the State's evidence, including all reasonable inferences to be drawn therefrom, in the light most favorable to the State." *Id*. This standard of review applies to

both direct and circumstantial evidence. *Id.* Indeed, "[c]ircumstantial evidence may support a conviction if the circumstances, taken together, do not require the trier of fact to resort to speculation or conjecture, but circumstantial evidence which merely arouses suspicion or leaves room for conjecture is obviously insufficient." *Id.*

Furthermore, "[w]hen making this determination, the appellate court is not required to determine 'whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt.'" *Roes v. State*, 236 Md. App. 569, 583 (2018) (quoting *State v. Manion*, 442 Md. 419, 431 (2015) (emphasis in *Manion*). "This is because weighing the credibility of witnesses and resolving conflicts in the evidence are matters entrusted to the sound discretion of the trier of fact." *Scriber v. State*, 236 Md. App. 332, 344 (2018) (cleaned up). "Our deference to reasonable inferences drawn by the fact-finder means we resolve conflicting possible inferences in the State's favor, because we do not second-guess the jury's determination where there are competing rational inferences available." *State v. Krikstan*, 483 Md. 43, 64 (2023) (cleaned up). In other words, the relevant question for the appellate court "is not whether the evidence *should have or probably would have* persuaded the majority of fact finders but only whether it *possibly could have* persuaded *any* rational fact finder." *Scriber*, 236 Md. App. at 344 (cleaned up).

Generally, false imprisonment is the "unlawful detention of a person against his [or her] will." *Midgett v. State*, 216 Md. 26, 38–39 (1958). The elements of false imprisonment are: "(1) a deprivation of the liberty of another; (2) without consent; and (3) without legal justification." *Rovin v. State*, 488 Md. 144, 180 (2024). "To obtain a

conviction for false imprisonment, the State was required to prove: (1) that appellant confined or detained [the victim]; (2) that [the victim] was confined or detained against her will; and (3) that the confinement or detention was accomplished by force, threat of force, or deception." *Jones-Harris v. State*, 179 Md. App. 72, 99 (2008). "Although there are other possible catalytic agents for the unlawful confinement, such as fraud or a false claim of legal authority, false imprisonment is most frequently the product of either an assault or a battery." *Marquardt v. State*, 164 Md. App. 95, 129–30 (cleaned up), *cert. denied*, 390 Md. 91 (2005), *overruled on other grounds by Kazadi v. State*, 467 Md. 1 (2020); *see also* Maryland State Bar Ass'n, *Maryland Criminal Pattern Jury Instructions* 4:13 (3d ed. 2024) ("MPJI-Cr") (False Imprisonment).

As for kidnapping, Section 3-502 (a) of the Criminal Law Article provides that "[a] person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State." Md. Code, Criminal Law § 3-502 (a). *See also* MPJI-Cr 4:19 (Kidnapping). Thus, kidnapping is "to forcibly or fraudulently carry or cause 'any person' to be carried out of or within Maryland with the intent to have the victim carried or concealed in or out of the State." *State v. Stouffer*, 352 Md. 97, 105 (1998).

On the question of the manner or means for a kidnapping, this Court has explained that the necessary "restraint" or coercion may take many forms. It has long been established that in Maryland, the "*forcible* carrying away of the victim is *not* required." *Tate v. State*, 32 Md. App. 613, 616 (emphasis added), *cert. denied*, 278 Md. 723 (1976). Indeed, a "*fraudulent* carrying" may also be sufficient. *Id*. (emphasis added). Certainly,

"there is no kidnapping if the person taken freely consents . . . [but c]onsent induced by fraud, or by intimidation and duress, is not a valid consent[.]" Clark and Marshall, *Law of Crimes*, § 10.23 at 743–44 (7th ed. 1967).

Indeed, both false imprisonment and kidnapping may be accomplished via fraud or deception, and both include as an element that the confinement was against the victim's will. *See* MPJI-Cr 4:13, 4:19. For instance, in *Watkins v. State*, 59 Md. App. 705 (1984), the murder victim was enticed to get into a car with the defendant and others on the ruse of testing some drugs. *Watkins*, 59 Md. App. at 710. The group drove from the District of Columbia into Maryland where the victim was fatally shot five times. *Id*. At issue was whether this constituted false imprisonment. *Id*. We explained:

> The issue here is one of first impression in Maryland. Appellant's conviction for false imprisonment arose entirely from the enticement of Harris into [the car] and his subsequent "confinement" during the trip into Maryland, presumably up to the time he was shot. There was no evidence that any force, or threat of force, was ever applied against Harris prior to the actual shooting. Indeed, the uncontradicted evidence was that he voluntarily accompanied appellant under the mistaken notion that they were going to test some drugs. The false imprisonment, in other words, rested entirely upon the element of deceit, and therein lies the issue. Is the crime of false imprisonment committed when the detention or confinement is achieved solely by deception, and not by actual force or threat of force?

Id. at 722 (footnote omitted).

We looked to the law of kidnapping and agreed that common law kidnapping "*may* rest upon a fraudulent taking." *Id.* at 724. We explained:

> The theory underlying this principle is the obvious one—that where false and fraudulent representations amounting substantially to a coercion of the will of the victim are used in lieu of force in effecting kidnapping, there is in law no consent at all on the part of the victim. Under those circumstances the law considers fraud the equivalent of force.

Id. (cleaned up). We concluded:

> Upon this analysis, we conclude that the Maryland common law crime of kidnapping—that which existed from 1776 to 1809—proscribed both the forceful and the fraudulent taking of a person, and that, as the relevant distinction between that crime and false imprisonment involves only the element of asportation, false imprisonment may also be achieved through fraud.

Id. at 725.

The State directs our attention to *Dean v. State*, 46 Md. App. 536 (1980), *overruled on other grounds by Booze v. State*, 111 Md. App. 208 (1996), *rev'd*, 347 Md. 51 (1997). In *Dean*, Bruce Herbert Dean and James Robinson were driving around Easton, Maryland, one night when they picked up four young women, women who would become Mr. Dean's and Mr. Robinson's victims. *Dean*, 46 Md. App. at 538. The group proceeded to drive around town, "partying" and "having a good time," according to the facts of the opinion. *Id.* At some point, Mr. Dean and Mr. Robinson began to drive outside of town at a high rate of speed. *Id.* The victims then asked to be let out of the truck, but they were told that they could not leave until they had sex with Mr. Dean and Mr. Robinson; otherwise, they would be driven from Easton to Wilmington, Delaware. *Id*. at 538–39. Twenty miles outside of Easton, one of the victims jumped out of the truck and was "seriously injured." *Id.* at 539. When the truck stopped, the other three victims escaped as well. *Id*.

Mr. Dean testified that the entire encounter was consensual. *Id.* He testified that the victims did not complain as he drove out of Easton towards his father's house to

continue "partying," and that he "stopped at all stop signs" during the evening. *Id*. We upheld the conviction for kidnapping, stating:

> Obviously, the jury, as was their prerogative, believed the victim's version. Keeping in mind that it is not our function to decide, on conflicting evidence, the guilt or innocence of an accused, we think the evidence was legally sufficient for the jury to have concluded beyond a reasonable doubt that *what began as a voluntary joy-ride became a nonconsensual, and therefore unlawful, carrying away amounting to statutory kidnapping*.

Id. (emphasis added).

Based on our review of these cases, confinement against the victim's will or consent is a critical and indispensable element in establishing both kidnapping and false imprisonment. Moreover, as is well-established throughout Maryland law, consent may be withdrawn or revoked. *See, e.g., Motor Vehicle Admin. v. Krafft*, 452 Md. 589, 593 (2017) (stating, under statutory provisions, anyone who drives in Maryland gives implied consent to submit to a breath test for alcohol, but "while consent is implied, it may be withdrawn"); *State v. McDonnell*, 484 Md. 56, 81 (2023) (stating, in a Fourth Amendment case, "[o]ne who gives consent for the search of a particular area or items may subsequently narrow the scope of the consent given or withdraw consent entirely"); *State v. Baby*, 404 Md. 220, 260 (2008) (reviewing cases and concluding that "a woman may withdraw consent for vaginal intercourse after penetration has occurred and that, after consent has been withdrawn, the continuation of vaginal intercourse by force or the threat of force may constitute rape").

Here, the jury was instructed on both false imprisonment and kidnapping that they needed to find that Mr. Peterson was confined or detained against his will. Thus, consent

was clearly at issue in this case. Although Mr. Peterson initially consented to accompany Appellant on the test drive, that consent was revoked as the test drive exceeded its normal parameters. Mr. Peterson told Appellant to head back to the dealership at the Hollywood St. John's light, and Appellant refused. Mr. Peterson again told Appellant to turn around at the Hollywood Burchmart, and Appellant told Mr. Peterson "to stop being a d**k" and that "he wanted to drive the car[.]" Mr. Peterson expressly testified that he was in fear and told Appellant, "We need to go back to the dealership, or you need to pull over," and Appellant did not listen but continued to drive the vehicle at eighty to ninety miles an hour, between ten and eleven miles from the point when Mr. Peterson revoked consent and over twenty miles north from the Lexington Park Ford-Lincoln dealer to the Charlotte Hall Wawa. We conclude that, to the extent that Mr. Peterson initially consented to Appellant's test drive, that consent was revoked and that Appellant's refusal to return to the dealership establishes that the encounter was no longer consensual. This undermines Appellant's claim that this was a mere test drive.

Relying on *State v. Stouffer*, 352 Md. 97 (1998), Appellant also argues that assuming Mr. Peterson was confined, then that confinement was incidental to Appellant's unauthorized use of the dealership's car and was not the "carrying away" or asportation necessary to prove kidnapping. In that case, the State's theory was that the Stouffer kidnapped the victim, drove him somewhere "in order to teach him a lesson," and then beat and stabbed him before dumping his body in a field off Interstate 81. *Stouffer*, 352 Md. at 104–05. The argument was that the asportation was for the purpose of an assault

and did not constitute kidnapping. *Id*. After reviewing a number of out-of-state cases and treatises, the Supreme Court of Maryland noted the following:

> The one thing that seems clear from the decisions following the majority view is that most of them are fact-specific. Whether the confinement or movement of the victim is merely incidental to another crime depends, in nearly every case, on the circumstances, even when guidelines of the types noted above are applied. If the victim is not moved too far, is not held for longer than is necessary to complete the other crime, and is not subjected to any significant peril from the confinement or movement itself, if the confinement or movement can reasonably be viewed as undertaken solely to facilitate the commission of the other crime, and if commission of the other crime normally involves (even if it does not legally require) some detention or asportation of the victim, the court is likely to conclude that the confinement or movement was merely incidental to the other crime and thus reverse a separate kidnapping conviction. If any of those factors are missing, however, there is a greater prospect of the court sustaining a separate kidnapping conviction.

Id. at 110. In affirming Stouffer's conviction for kidnapping, the Court then adopted the following approach:

> We [align] ourselves with the majority approach that examines the circumstances of each case and determines from them whether the kidnapping—the intentional asportation—was merely incidental to the commission of another offense. We do not adopt, however, any specific formulation of standards for making that determination, but rather focus on those factors that seem to be central to most of the articulated guidelines, principally: How far, and where, was the victim taken? How long was the victim detained in relation to what was necessary to complete the crime? Was the movement either inherent as an element, or, as a practical matter, necessary to the commission, of the other crime? Did it have some independent purpose? Did the asportation subject the victim to any additional significant danger?

Id. at 113.

Applying *Stouffer* to these facts, we are persuaded that the asportation was not merely incidental to the underlying kidnapping. Simply relying on Detective Burgess's

estimation of the distance, as opposed to Google Maps, the Wawa in Charlotte Hall is sixteen to seventeen miles from the dealership. And the Wawa was located between ten and eleven miles away from the point in time when Mr. Peterson clearly revoked consent to the test drive. Further, we are also satisfied by the State's argument that Mr. Peterson's presence in the vehicle facilitated the ruse of this being a normal test drive at its inception. And a rational fact finder could conclude that the excessive speeding by Appellant of between eighty and ninety miles an hour on Route 235 put Mr. Peterson in significant danger of harm. *Stouffer* supports our conclusion that the evidence was sufficient.

Appellant further suggests that Mr. Peterson was not restrained and could have "excised" himself from the test drive. We are not convinced that Mr. Peterson's revocation of consent was undermined by the fact that he reasonably decided against jumping out of a fast-moving vehicle belonging to his employer, Lexington Park Ford-Lincoln. *See generally*, Restatement (Second) of Torts § 36 (1965) ("The confinement is complete although there is a reasonable means of escape, unless the other knows of it."). Nor are we convinced by Appellant's suggestion that any malintent was negated by the fact that the dealership had a copy of his driver's license. As an appellate court, we do not reweigh the evidence. *Dawson v. State*, 329 Md. 275, 281 (1993) (noting that "it is the jury's task, not the court's, to measure the weight of evidence").

We hold that the evidence was sufficient for a rational jury to find that Appellant was guilty beyond a reasonable doubt of both false imprisonment and kidnapping.

II. Denial of Motion for New Trial

Appellant next asserts the court erred by denying his motion for new trial because one of the jurors failed to disclose a relationship with the State's Attorney. The State responds that the court properly exercised its discretion because the juror's non-disclosure was inadvertent. We concur.

"Generally, an appellate court reviews for abuse of discretion a trial court's denial of a motion for a new trial." *Williams v. State*, 478 Md. 99, 130–31 (2022). "However, an appellate court reviews without deference a trial court's interpretation of case law and the Maryland Rules." *Id.* Further,

> it may be said that the breadth of a trial judge's discretion to grant or deny a new trial is not fixed and immutable; rather, it will expand or contract depending upon the nature of the factors being considered, and the extent to which the exercise of that discretion depends upon the opportunity the trial judge had to feel the pulse of the trial and to rely on his own impressions in determining questions of fairness and justice.

Buck v. Cam's Broadloom Rugs, Inc., 328 Md. 51, 58–59 (1992). Additionally, judicial discretion has been described as:

> a composite of many things, among which are conclusions drawn from objective criteria; it means a sound judgment exercised with regard to what is right under the circumstances and without doing so arbitrarily or capriciously. Where the decision or order is a matter of discretion it will not be disturbed on review except on a clear showing of abuse of discretion, that is, discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.

Belton v. State, 483 Md. 523, 548 (2023) (cleaned up).

Here, after the trial, the prosecutor learned that a juror had a possible relationship with Jamyi Sterling, the State's Attorney for St. Mary's County.[7] The juror, identified as Juror 26, was voir dired by the court and the parties in part as follows:

> THE COURT: Good morning, Juror 26. How are you doing today?
>
> JUROR 26: Good.
>
> THE COURT: All right. Thank you very much for coming in today. A question arose after the trial was completed, and we believe may be relevant to you or not. We're not sure. Do you know the State's Attorney, Jamie [sic] Sterling?
>
> JUROR 26: Of her, yes. Our office writes her insurance.
>
> THE COURT: Okay.
>
> JUROR 26: But that was probably 10, 11 years ago. I maybe saw or spoke to him [sic] once since then.
>
> THE COURT: So your insurance company had previous dealings with Ms. Sterling, and 10 or 11 years ago, you might have never –
>
> JUROR 26: I believe it was 2011, 2012. Right around there is whenever we wrote her home and auto insurance. Okay.
>
> THE COURT: Have you had contact with her since then?
>
> JUROR 26: Maybe just passerby type things. I've never been to any functions or anything like that with her.
>
> THE COURT: Okay. There was a question asked during the voir dire when the full panel was here about, and I'm going to read the question to you and then ask if you responded to the -- if you remember whether or not you responded to the question. The question was, "Sarah Proctor is representing the State of Maryland in this case. Does any member of the panel or a close friend or relative have a professional or social acquaintance with Sarah Proctor, State's Attorney Jamie [sic] Sterling, or any employee of the office of the State's Attorney for St. Mary's County?"
>
> Do you remember if you answered that question?
>
> JUROR 26: I do not believe that I did.
>
> THE COURT: Okay. Do you know why?
>
> JUROR 26: It didn't seem in my relevance -- I mean, I -- you know, like I said, it's not really a relationship with her.

[7] The prosecutor in this case was Sarah Proctor.

After Defense Counsel proffered that the juror was friends with Ms. Sterling on Facebook, the court suggested that counsel inquire further, as follows:

> THE COURT: [Defense Counsel], do you have a question you'd like to ask?
>
> [DEFENSE COUNSEL]: Yes. So you answered this a little bit, I think, about your last interactions with Ms. Sterling. I believe I knew who the juror was that was -- so, I did look you up on Facebook and I saw that you are friends with Ms. Sterling on -- it shows up on your profile. You indicated earlier that you guys haven't had any interaction over the past 10, 11 years. Is that accurate?
>
> JUROR 26: Other than passing, you know, seeing her, passerby type of thing.
>
> [DEFENSE COUNSEL]: Okay.
>
> JUROR 26: It's a small community. I mean, I know a good amount of people around here, so.
>
> [DEFENSE COUNSEL]: But you guys don't, like, hang out or go to any events, you know, go to her, like, fund raising or anything with that?
>
> JUROR 26: No, I don't, honestly, I don't even think I voted for her last election, so.
>
> [DEFENSE COUNSEL]: Okay. All right.
>
> JUROR 26: And, I mean, don't tell her that.
>
> [DEFENSE COUNSEL]: (indiscernible).
>
> [PROSECUTOR]: It's a closed courtroom for a reason, so.
>
> JUROR 26: It's really, I mean, I wouldn't even consider it a relationship. I mean, like I said, our office wrote her insurance. Had to be, you know, 2011, 2012. I mean, it's --
>
> [DEFENSE COUNSEL]: But she's no longer a client at the, I guess, whatever agency it is?
>
> JUROR 26: She is, I believe, yes.
>
> [DEFENSE COUNSEL]: But she's not like your specific client or anything?
>
> JUROR 26: We have -- I mean, it's an office. You know, we take care of each other. I don't service really any of the clients, so if she calls in to make a change of a vehicle or something like that, I don't handle any of that stuff. I primarily do the new business of the office. So, you know, originally whenever she came in, I probably would have -- me or Dan would have taken care of her.

[DEFENSE COUNSEL]: Dan is the, like, is he the --

JUROR 26: He's the owner.

[DEFENSE COUNSEL]: The owner, okay. So it sounds like maybe Dan called somebody, maybe called Ms. Sterling.

[PROSECUTOR]: Objection, I believe we're getting outside the scope now into -- Dan's not on the jury. It's strictly to that question.

[DEFENSE COUNSEL]: Which I think this goes to that question, which is --

THE COURT: Let me ask it a different way.

After the trial was over, did you have any communication with Ms. Sterling?

JUROR 26: No.

[DEFENSE COUNSEL]: All right. Thank you.

The court heard argument on the motion at sentencing. Defense Counsel noted that the State's Attorney was a client of the juror's insurance company, that there was a "financial relationship," and that he may have had "some fiduciary, in a sense, relationship with her." Counsel agreed that the relationship was "slight" but argued that it should have been disclosed and counsel was prevented from probing the juror for potential bias and likely would have used a peremptory challenge to strike the juror from the jury.

After hearing from the State, the court denied the motion for new trial, finding, in part, as follows:

> And I asked him specifically, did he hear that question and that he responded to that question and he said that he did hear the question and he did not respond to the question, and my belief is that this explanation was that he did not believe that the question applied to him. And he went on further to state that his contact with [the State's Attorney for St. Mary's County,] Ms. Sterling[,] was approximately 10 or 11 years ago. When she first came to that office, he at that time was responsible for processing new clients, who processed her.

> I believe his testimony was that he's not had any interaction or he doesn't recall having any interaction with her since that original time, 10 or 11 years ago. And I believe his response was that he did not respond to the question because he did not believe that it applied to him because he did not think this was a social or professional acquaintance.

Acknowledging Defense Counsel's concern about potential bias, the court continued:

> [L]ooking at the totality of these circumstances, I use the -- which I think is passed around to all judges -- procedural steps for a perfect criminal trial in presenting during the course of the trial, my interactions with juries, my interactions with the parties. And in the statements made to the voir dire panel, I read this portion and I read it so that I make sure that I'm saying it the way that it's been presented to me, and I'm going to skip to the part that's relevant to this. "Listen to the question and decide if it applies to you. If it applies to you, just stand up. Once you stand up, I will come up with a way to identify you. Sometimes you will be the only one standing. It will be easy. Sometimes I will make eye contact with you. Sometimes I may identify you by a piece of clothing." And that is the instruction that is given to them.
>
> And in this particular case, that instruction is if it applies to you. And I think in this particular case, the witness's statement that he did not believe that the question applied to him and his explanation for that, I'm satisfied that I believe it was not intentional in his part to try and hide some piece of information or to hide any relationship that he had or might have had with Ms. Sterling. I think he does not believe that he has any relationship with Ms. Sterling. He's not friends with her. He doesn't socialize with her, and he doesn't even believe that he's had any interaction with her since he had originally set her up in their system way back when.
>
> So, for those reasons, the Court is going to deny the request for a new trial and move on to the next stage, which is sentencing.

A criminal defendant's right to be tried by an impartial jury "is one of the most fundamental rights under both the United States Constitution and the Maryland Declaration of Rights." *Dillard v. State*, 415 Md. 445, 454 (2010) (cleaned up). The Sixth Amendment to the United States Constitution guarantees that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed[.]"

Article 21 of the Maryland Declaration of Rights guarantees: "[t]hat in all criminal prosecutions, every man hath a right . . . to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty."

We test potential jurors for bias or prejudice through the jury selection process, or voir dire. *Jenkins v. State*, 375 Md. 284, 331 (2003) ("[O]ne of the ways to protect a defendant's constitutional right to an impartial jury is to expose the existence of factors which could cause a juror to be biased or prejudiced through the process of *voir dire* examination."). When, either as a result of a venire member's inattention or inadvertence, voir dire fails to reveal a potential basis for disqualifying an empaneled juror that is discovered later in the trial, or even after a verdict has been rendered, the defendant may be entitled to a new trial. *See Williams v. State*, 394 Md. 98, 113–15 (2006). If the court is able to determine through voir dire that the juror's failure to disclose a potential bias was inadvertent, and that the potential bias did not in any way affect the juror's disposition of the case, the court may exercise its discretion to decide whether the defendant is entitled to a new trial, untainted by the prejudice of a potentially biased juror. *Id*. at 112–13. *See also Burkett v. State*, 21 Md. App. 438, 441–42, 445–46 (1974) (upholding circuit court's denial of defendant's motion for a new trial where the court was able to determine that a juror's inadvertent failure to disclose daughter's employment as a secretary in the State's Attorney's Office had no effect on the jury's verdict); *Leach v. State*, 47 Md. App. 611, 618–19 (1981) (concluding that circuit court's refusal to strike a juror or declare a mistrial was not erroneous, where questioning revealed that the childhood relationship between a juror and a homicide detective, which the juror had failed to properly disclose

during voir dire, did not impair the juror's ability to fairly and impartially decide the case).

In *Williams, supra*, the juror failed to disclose that her sister was employed as a secretary in the State's Attorney's Office and, when that direct family relationship was later revealed, the court, without ever questioning the juror, simply declared the connection to be too remote. *Williams*, 394 Md. at 105. Citing this Court's Opinion in *Burkett, supra*, the *Williams* Court accepted the view that, in the absence of a showing of actual prejudice or evidence that gives rise to a reasonable belief that prejudice or bias by the juror was likely, the grant of a new trial is discretionary but made clear that some investigation by the court is required, stating:

> We endeavor to be clear on this point. Where the juror is available for further voir dire and is further voir dired, a trial court may exercise the discretion *Burkett* requires it to exercise. But, the trial court's sound discretion can only be exercised *on the basis of the information that the voir dire reveals and the findings the trial court makes as a result*.

Id. at 113. But the Court also held that "where there is a non-disclosure by a juror of information that a voir dire question seeks and the record does *not* reveal whether the non-disclosure was intentional or inadvertent, the defendant is entitled to a new trial." *Id.* (emphasis added). The Court therefore granted a new trial, holding:

> We hold that, where there is a non-disclosure by a juror of information that a voir dire question seeks and the record does not reveal whether the non-disclosure was intentional or inadvertent, the defendant is entitled to a new trial. That the disclosure would not automatically have required a strike for cause does not matter; it is the inability of the defendant to have the benefit of a further investigation by the court, he or she being deprived of the ability to delve into the juror's state of mind for bias and of a finding in that regard, that is decisive.

Williams, 394 Md. at 114–15 (footnotes omitted).

Although we recognize that there was a potential for bias since the juror's employer was contractually obligated to defend and indemnify Ms. Sterling personally, unlike in *Williams*, the trial court voir dired the juror and found the non-disclosure to be inadvertent. The juror testified that any contact with Ms. Sterling occurred ten to eleven years before trial, that he had no contact with her after the trial, and, as Defense Counsel conceded, any relationship was "slight." Based on the record presented, we are unable to conclude that the court's finding was clearly erroneous or that the court abused its discretion in denying the motion for new trial. *See generally, Belton, supra*, 483 Md. at 548 (defining an abuse of discretion as "discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons").

JUDGMENTS OF THE CIRCUIT COURT FOR ST. MARY'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.