Circuit Court for Prince George's County
Case No. C-16-CR-23-002730

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1026

September Term, 2024

DEVONTE SOBR TAYLOR

v.

STATE OF MARYLAND

Arthur,
Ripken,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: February 10, 2026

* 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 Maryland Rule 1-104(a)(2)(B).

This appeal arises from the circuit court's denial of Appellant, Devonte Sobr Taylor's ("Appellant's") motion to dismiss based on double jeopardy grounds. After a State's witness expressed multiple remarks concerning the dangers of testifying, the court declared a mistrial. Appellant's counsel deferred and did not object to the court's decision. Appellant later filed a motion to dismiss on double jeopardy grounds, asserting for the first time that the mistrial was not a "manifest necessity," thereby barring a retrial. The circuit court denied the motion, which Appellant argues is reversible error.

QUESTIONS PRESENTED

Appellant presents one question for our review:

Did the trial court err in denying [Appellant's] motion to dismiss?

For the reasons outlined below, we affirm the judgment of the circuit court.

BACKGROUND

A shooting occurred at a cookout in the early morning hours of August 13, 2023. Witness Bobby Hedgespeth observed a person with dreadlocks firing an automatic-sounding weapon from the front of the apartment building where Appellant resided with his mother.

About fifty minutes after the shooting, a barefoot Appellant arrived at Mr. Hedgespeth's home wearing only socks and long johns. Appellant admitted to Mr. Hedgespeth that an argument with someone named "Ty" had escalated, prompting him to retrieve his firearm from his home and open fire. Appellant claims he shot in self-defense after the decedent shot first and then lost control of the rifle. According to Mr. Hedgespeth, Appellant ran through the woods after the shooting, discarding both the firearm and his

clothes to eliminate evidence. Mr. Hedgespeth further testified that Appellant was wearing blue Nike sneakers that day—the same shoes later recovered in the woods.

Prince George's County Police responded to the scene. There, they located three victims suffering from gunshot wounds: Tyrone Thomas, who was fatally shot, and two surviving victims, Ronald Nathan Jones and James Corrello Smith. Mr. Thomas and Mr. Smith were transported to the hospital for medical attention. Mr. Thomas was pronounced dead from multiple gunshot wounds.

Homicide detectives processed the scene, collecting items of evidence, including .223 caliber fired cartridge casings. None of the cartridge casings found at the scene were swabbed for DNA. Mr. Hedgespeth reported that "Monster"—later identified as Mr. Jones, the boyfriend of Appellant's mother—initiated the shooting, despite later testifying that there was only one shooter. During the course of the investigation, a witness who had "known the suspect for many years[,]" advised they saw Appellant shoot the victims.

Appellant was charged with 15 counts, including first-degree murder, second-degree murder, first-degree assault, second-degree assault, and various firearm-related offenses. Trial proceeded on May 21-23, 2024, during which Mr. Hedgespeth testified. During cross-examination, after confirming that other witnesses observed Appellant arrive at Mr. Hedgespeth's home following the shooting, defense counsel challenged Mr. Hedgespeth on why he failed to disclose these witnesses to the police. The following colloquy ensued:

> **DEFENSE COUNSEL:** Okay. What are their names? Did you tell police about these people?

MR. HEDGESPETH: Why would I? Because they don't want to be involved. Do you know what happens to people that get involved with these types of things?

* * *

DEFENSE COUNSEL: Okay. What I'm asking for is corroboration from what you're telling the story, okay?

MR. HEDGESPETH: Okay. My Uncle Troy.

DEFENSE COUNSEL: Okay.

MR. HEDGESPETH: But if anything happens to my Uncle Troy, it's not going to be cool, you understand what I'm saying? What you say in this courtroom does hit the street. I'm just letting you know.

DEFENSE COUNSEL: I'm asking about people who can corroborate what you're telling this jury under oath.

MR. HEDGESPETH: And I'm telling you people is not going to talk to you because there are other repercussions from stuff like this. That is why other people didn't come to court. There's many people that saw what happened.

At this juncture, the court called for a bench conference to admonish defense counsel and Mr. Hedgespeth, warning them that his testimony might improperly intimidate the jury:

THE COURT: Okay. So Mr. Hedgespeth is providing this jury with information that I do not want them to consider in this case. So I need for you, [defense counsel], to be mindful of the questions that you're asking him, and I will admonish him again just to please answer your questions.

DEFENSE COUNSEL: Yes, Your Honor.

THE COURT: But I just want you to please—you're speaking to him, I know it's cross-examination, but the more information he's trying to bombard you with and tell you. I don't want to have a mistrial, but if we continue down this road, that's exactly what's going to happen. So I'm admonishing you and I'll admonish him that if that's what needs to happen, that's what's going to have to happen if he keeps going down this road with regard to this line of testimony. I don't want this jury to feel intimidated.

DEFENSE COUNSEL: And I don't want that either. It's a tough position because I'm not trying to interrupt him, but also like I'm trying to ask just the question, but you know. . .

THE COURT: I understand. However, at the end of the day, I'm not going to have my panel feel that they are being intimidated or that there's going to be repercussions on them if they preside over this case. So I want to make that crystal clear to everyone. If it continues, I'll do it *sua sponte*, okay?

DEFENSE COUNSEL: Okay.

THE COURT: Thank you.

* * *

THE COURT: [T]hat being said, everyone be mindful and you-all understand my position. So if I feel that it's necessary, that's where I'm going to go.

DEFENSE COUNSEL: I understand.

THE COURT: All right.

THE STATE: Especially given the fact that some of these jurors did say they live in the neighborhood.

THE COURT: Correct. So all right. Thank you, everybody. Just so we're all on the same page.

Defense counsel continued with cross-examination. Upon defense counsel's cross-examination of Mr. Hedgespeth concerning a reward poster for information on the shooting, the court intervened and declared a mistrial:

MR. HEDGESPETH: I don't do anything for rewards, ma'am. If that was the case, I would be paid. Do you know how many people I've locked up or had locked up? Okay. I don't do anything for money. Okay.

DEFENSE COUNSEL: Okay. We don't need to go down that road.

MR. HEDGESPETH: Okay. I don't do anything for money, no.

DEFENSE COUNSEL: I just want to make it clear, you've seen that poster, correct?

MR. HEDGESPETH: If you see something, you say something. You know something, you say something. That's the law.

DEFENSE COUNSEL: Mr. Hedgespeth, you've seen that poster, correct?

MR. HEDGESPETH: I've seen the poster.

DEFENSE COUNSEL: Okay. And someone showed it to you the other day?

THE STATE: Objection. Asked and answered.

THE COURT: Overruled as far as when it was and who showed it to him.

MR. HEDGESPETH: That reward has nothing to do with me.

DEFENSE COUNSEL: Well, I'm just trying to figure out who showed you a $25,000 reward poster.

MR. HEDGESPETH: Okay. First of all, I didn't turn him in. His own mom turned him in, okay? So if you want to go to somebody with a reward, go to her.

THE COURT: All right. Mr. Hedgespeth.

DEFENSE COUNSEL: May we approach?

THE COURT: Yes.

(Whereupon, counsel and the defendant approached the bench and the following ensued:)

THE COURT: We don't have a choice.

DEFENSE COUNSEL: Okay. I understand. I understand the Court—you know, I defer to the Court.

* * *

THE COURT: All right. You can place whatever you'd like on the record, then I'll place what I need to place on the record, then we'll see what we need to do. Go ahead.

DEFENSE COUNSEL: I understand, Your Honor. I'm going to defer to the Court.

THE COURT: [Prosecutor,] is there anything you'd like to say?

THE STATE: Your Honor, the only thing I would say is that both State and Defense deserves a right to a fair trial. And, I mean, it's like this trial is being sabotaged.

THE COURT: From the start it seems like.

THE STATE: Yes.

THE COURT: However, at this point, there is nothing that I can do to cure what Mr. Hedgespeth just said in front of the jury panel. The jury is tainted. There's nothing that I can do to take back what the statements that have been made in open court with regard to how Mr. Taylor was brought to police. So, at this juncture, I don't believe that he can get a fair trial with this jury panel and I'm going to declare a mistrial. So now we need to select a new trial date as soon as possible. Before we do all that, I'm going to release the panel. I'm not going to hold them back there while we do all the housekeeping things. Actually, I'm going to go back and make an announcement to them, and I'm going to excuse them, and then I'll come back and deal with you-all.

DEFENSE COUNSEL: Okay. Yes, Your Honor.

Several weeks later, on June 27, 2024, Appellant filed his motion to dismiss on double jeopardy grounds. His motion was heard and denied on July 1, 2025. The court explained:

THE COURT: So with regard to the motion to dismiss, the motion to dismiss will be denied at this time because I do not believe that there was anything that could have been done to cure the totality of the statements and the information that was relayed to the jury by Mr. Hedgespeth. And with regard to the request that Mr. Hedgespeth be excluded from the next trial testimony, I'm going to admonish the State at this time, should Mr. Hedgespeth's testimony be at all in line with the nature and the manner of his testimony at the prior hearing, if the Defense request that he be excluded, I'm not going to give him any additional opportunities to cure his testimony or his behavior. I'm going to strike his testimony, should he come back into

> court in the same manner and provide the same type and nature of testimony that he provided previously.

Appellant timely noted this appeal.

STANDARD OF REVIEW

This Court reviews a ruling on a motion to dismiss *de novo*, *Reiner v. Ehrlich,* 212 Md. App. 142, 151 (2013) and applies the abuse of discretion standard to a declaration of a mistrial. *Simmons v. State*, 436 Md. 202, 212 (2013) (reasoning the trial judge is uniquely situated to assess the proceedings—such as the reactions of jurors and counsel to inadmissible evidence—that are not reflected in a cold record).

A court abuses its discretion when its decision is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Devincentz v. State*, 460 Md. 518, 550 (2018) (citation omitted). This can be demonstrated when "the ruling under consideration appears to have been made on untenable grounds, when the ruling is clearly against the logic and effect of facts and inferences before the court, when the ruling is clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result, when the ruling is violative of fact and logic, or when it constitutes an untenable judicial act that defies reason and works an injustice." *Id.* (citation omitted).

DISCUSSION

I. The Circuit Court Did Not Err in Denying Appellant's Motion to Dismiss.

A. The Parties' Arguments

The parties focus on two main issues: whether Appellant consented to the mistrial and whether there was a "manifest necessity" for declaring a mistrial. Appellant argues because there was no consent or "manifest necessity" for declaring a mistrial, further prosecution is now barred by the double jeopardy clause, and the circuit court erred in denying his motion to dismiss.

For the first issue, Appellant maintains that "defense counsel's deference to the court was not consent[.]" He likens his situation to *People v. Cooper*, a case where the Michigan appellate court found the defendant's "ambiguous language" did not equate to her consent to a mistrial. 111 Mich. App. 194, 196-200 (1981) (finding the defendant's statement that "she doesn't care" whether the court declares a mistrial is too ambiguous to demonstrate her consent). Appellant further points to the circuit court's own statement—that the mistrial was declared *sua sponte*—as evidence he did not consent.

The State argues Appellant *did* consent because his counsel failed to comply with Md. Rule 4-323(c)'s "mandate" to formally object to the mistrial, despite having the opportunity to do so. The State continues by stating "it was not clear the defense counsel opposed the trial when she repeatedly deferred to the trial court's decision." Moreover, the State points to the fact that "[a]fter the declaration of the mistrial, defense counsel solely discussed scheduling a hearing date to determine when to set the new trial[,]" and that

"[d]efense counsel only raised a double jeopardy claim at the motions hearing, nearly two months later." Lastly, the State attacks Appellant's citation to *Cooper* on two principal grounds: (1) the case was decided in Michigan and can only be used as persuasive authority, *see* Md. Rule 1-104(b); and (2) the facts in *Cooper* are distinguishable from this instant matter because in *Cooper*, the appellant's co-defendant requested a mistrial and, in the absence of appellant's explicit consent, the appellate court found severance would have been a more reasonable alternative than declaring a mistrial. 111 Mich. App. at 197-200.

For the second issue, Appellant cites *Hubbard v. State*, 395 Md. 73, 93 (2006) for the proposition that if a reasonable alternative exists, there cannot be a "manifest necessity" for declaring a mistrial. In *Hubbard*, the Supreme Court of Maryland found that excluding the witness's testimony was a reasonable alternative to a mistrial where the witness, whose testimony against one of the defendants had been previously suppressed, identified the other defendant. *Id.* at 93, 96. Similarly, Appellant argues that the reasonable alternative in this case was to strike Mr. Hedgespeth's testimony rather than to declare a mistrial.

The State counters by arguing "there was no other choice but to declare a mistrial after [Mr.] Hedgespeth injected highly prejudicial testimony to the jury." The State contends that Mr. Hedgespeth's testimony that "there were potentially lethal ramifications from being in court coupled with the witness stating that [Appellant's] own mother turned him in[,]" was too prejudicial to not declare a mistrial. The State states this was not an abuse of discretion, citing to the circuit court's explanation "that there were 'certain reactions from the jury' that led her to believe she needed to declare a mistrial because she did 'not want this jury to feel intimidated.'"

B. Legal Framework

The Double Jeopardy Clause of the Fifth Amendment to the United States Constitution states: "No person shall be subject for the same offence to be twice put in jeopardy of life or limb[.]" U.S. CONST. amend. V. In essence, this clause protects defendants from being tried or punished twice for the same offense. *See Ware v. State*, 360 Md. 650, 708 (2000) (stating the clause "protects against successive prosecution as well as cumulative punishment[.]"). The Fourteenth Amendment and state common law provide for the clause's recognition in Maryland. *See id.* The clause's underlying rationale is that:

> [T]he State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.

Benton v. Maryland, 395 U.S. 784, 795–96 (1969) (citation omitted).

Double jeopardy does not apply in three situations: (1) when a defendant successfully appeals their conviction; (2) when a defendant consents to a mistrial; and (3) when there is a "manifest necessity" to declare a mistrial. *See Jeffers v. United States*, 432 U.S. 137, 152 (1977); *see also State v. Woodson*, 338 Md. 322, 329 (1995) (describing the consent exception).

Finding "manifest necessity" is a fact-intensive inquiry. *See Simmons*, 436 Md. at 215 (finding the "manifest necessity" test cannot "be applied mechanically or without attention to the particular problem confronting the trial judge.") (citation omitted). To establish "manifest necessity," all reasonable alternatives must have been eliminated. *See Hubbard,* 395 Md. at 92; *see, e.g., Illinois v. Somerville*, 410 U.S. 458, 464 (1973) (finding

"manifest necessity" exists when "an impartial verdict cannot be reached, or if a verdict of conviction could be reached but would have to be reversed on appeal due to an obvious procedural error in the trial.").

C. Analysis

As a preliminary matter, we find that Appellant has not properly preserved this issue because he failed to object to the declaration of mistrial. *See* Md. Rule 4-323(c). While Appellant formally challenges the denial of his motion to dismiss, his sole argument concerns whether the court improperly declared a mistrial. As such, the preservation of Appellant's issue hinges on whether he made a timely objection to the mistrial at the time it was granted. He failed to object, therefore waiving this issue.

Preservation rules, which ensure fairness by requiring issues to be fully litigated at the trial level, must be followed in all cases. *Conyers v. State*, 354 Md. 132, 150 (1999). The rare exceptions where this Court has reviewed unpreserved issues involve findings of prejudicial error and instances where the failure to preserve was not a strategic trial tactic. *Id.*; *see also* Md. Rule 8-131(a) ("Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record . . . but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal."); *Sine v. State*, 40 Md. App. 628, 632 (1978) (emphasizing the high bar the appellant must meet before this Court conducts plain error review).

Appellant cannot meet the high bar required for plain error review. As discussed below, the circuit court acted well within its discretion because Appellant acquiesced to

the declaration of a mistrial and the record established a "manifest necessity." Consequently, there is no error to review.

1. *Appellant consented to the mistrial.*

Counsel's deference to the court demonstrated consent to the mistrial. When the court intervened Mr. Hedgespeth's testimony and declared a mistrial, defense counsel explicitly deferred to the court. To defer to the court's decision implies agreement with the decision. Therefore, we hold that Appellant, either expressly or impliedly, consented to the mistrial.

Defense counsel did not suggest any alternatives to a mistrial. If this was a calculated trial strategy, it was the very strategy that the *Cooper* decision cautioned against. *See generally* 111 Mich. App. 194 (1981). In *Cooper*, the Michigan appellate court found the defendant's "ambiguous language" did not sufficiently demonstrate her consent to a mistrial. *Id.* at 196-200. However, the Michigan appellate court warned:

> The ambiguous language used by defense counsel should have served as a "red flag" warning that [the] defendant might take advantage of any order granting a mistrial to claim retrial was forbidden by the bar on double jeopardy. . . . The record is sufficiently ambiguous that we feel we must rely on the assessment of consent made by the trial judge at the time.

Id. at 199-200.

In addition to withholding any alternatives, counsel failed to object to the declaration of mistrial. Generally, when a movant foregoes exercising their right while being "informed of both the scope and nature of the right being relinquished as well as the consequences of so doing[,]" they have waived their right to challenge any resulting error. *See Smith v. State*, 394 Md. 184, 201 (2006). Although Maryland case law has not explicitly

determined whether a failure to object to a mistrial constitutes consent, our prior rulings and the approach taken by other jurisdictions indicate that such a finding is permissible. *See, e.g., Gibson v. State*, 334 Md. 44, 51 (1994) (finding consent where there was a failure to object to a temporary substitution of judges); *see also United States v. Palmer*, 122 F.3d 215, 218 (5th Cir. 1997) ("If a defendant does not timely and explicitly object to a trial court's *sua sponte* declaration of mistrial, that defendant will be held to have impliedly consented to the mistrial and may be retried in a later proceeding."). In the case at bar, we find counsel's absence of an objection, coupled with deferring to the court regarding the declaration of a mistrial, was fatal. For these reasons, it was not an error to deny Appellant's motion to dismiss.

2. *There was "manifest necessity" to declare a mistrial.*

While Appellant's consent alone is sufficient to affirm the denial of his motion to dismiss, the record also supports an independent finding of "manifest necessity." The integrity of the jury's deliberative process is necessary for a fair trial—here, the jury was incurably tainted by Mr. Hedgespeth's intimidating remarks. Thus, declaring a mistrial was a "manifest necessity," and no reasonable alternative would have sufficed.

Jury intimidation is a long-standing threat to the integrity of the jury deliberative process. *See, e.g.,* 18 U.S.C. § 1503(a) (prohibiting juror intimidation); *cf. Howell v. State*, 465 Md. 548, 565 (2019) ("[W]itness intimidation and protection are 'exceptionally serious societal' issues."); *Virginia v. Black*, 538 U.S. 343, 360 (2003) ("Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear

of bodily harm or death."). The relevant inquiry here is not the intent of the witness, but the witness's impact on the jury. Where a jury appears apprehensive because of a witness's testimony, such that it impacts its ability to be fair and impartial in its consideration of the case, it may provide a "manifest necessity" to declare a mistrial.

Our prior case law establishes that the doctrine of "manifest necessity" permits the declaration of a mistrial where the risk of a coerced verdict outweighs the interests of the judicial economy. *See also U.S. v. Mastrangelo*, 662 F.2d 946 (2d Cir. 1981) (finding retrial is allowed when witness unavailability was attributable to defense intimidation of witness). In *Johnson v. State*, this Court determined a mistrial was justified by "manifest necessity" when the circuit court determined that jury deliberations would likely result in a coerced verdict rather than a unanimous one. 248 Md. App. 157, 168 (2020) ("The risk, rather, was that she might have been intimidated into a coerced unanimity. That is not a result that anyone should have sought. That would be a result more grievous than a mistrial."). This Court affirmed the circuit court's declaration of the mistrial because the court's fears that a juror was feeling "threatened and intimidated by 11 others who disagreed with her" were genuine and sincere. *Id.*

The same principle compels a finding of "manifest necessity" in the instant case. A trial becomes compromised when the jury's duty to remain objective is replaced with a subjective fear for their safety. Once the circuit court determined the jury was becoming apprehensive, it became clear that any subsequent verdict would be incurably tainted, thus creating a "manifest necessity" to declare a mistrial.

The circuit court properly exercised its discretion in determining that Mr. Hedgespeth's testimony—such as his statement that testifying in court carries "repercussions"—caused the jury to become apprehensive. While a cold record cannot accurately capture the jury's reaction, the circumstances here reasonably support a finding that the jury became apprehensive as a result of Mr. Hedgespeth's testimony. The word "repercussions" is a classic euphemism for violence. When a witness mentions repercussions for testifying, it signals to the jurors that their actions may also lead violence against them. Since the circuit court is in the best position to observe and gauge the jury's composure, we find no reason to disturb its determination that Mr. Hedgespeth's testimony caused them to become apprehensive.

Furthermore, we reject Appellant's argument that striking Mr. Hedgespeth's testimony was a reasonable alternative to the mistrial. While striking testimony is a common remedy for evidentiary errors, it is inadequate when the witness's testimony causes a jury to become apprehensive. A curative instruction may direct a jury to disregard a specific fact, but it is powerless to eliminate a juror's sincere fear for their safety. The prejudice of Mr. Hedgespeth's testimony was too great that declaring a mistrial was a "manifest necessity."

CONCLUSION

We affirm the circuit court's denial of Appellant's motion to dismiss. Appellant's claim fails on two fronts: first, he failed to preserve the issue for review by failing to object to the declaration of mistrial; second, even if preserved, his claim fails on the merits.

Whether analyzed through the lens of consent or the existence of "manifest necessity," we hold the circuit court acted within its discretion in denying the motion.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.