

Circuit Court for Calvert County
Case No. C-04-CR-22-000253

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1285

September Term, 2023

JAMAL MORRIS STILLS

v.

STATE OF MARYLAND

Berger,
Nazarian,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: May 9, 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).

This case arises following the conviction of appellant, Jamal Morris Stills (“Stills”), in the Circuit Court for Calvert County. Police were notified of the presence of a firearm in Stills’ vehicle following two anonymous telephone calls that gave the make, model, and license plate number of the vehicle, and indicated that Stills possessed marijuana and a firearm. Stills filed a motion to compel disclosure of the anonymous caller’s identity, which the court denied. Following a jury trial, Stills was convicted of the possession of a regulated firearm and ammunition with a prior disqualifying conviction and driving without a license, and sentenced to eight years, one month, and 29 days. This appeal followed.

QUESTIONS PRESENTED

Stills presents one question for our review, which we have recast as follows:¹

Whether the trial court abused its discretion in denying Stills’ motion to compel the identification of an anonymous informant.

For the following reasons, we affirm.

BACKGROUND

¹ Stills phrased the question as follows:

Whether the circuit court abused its discretion in denying a defendant’s motion to compel the identification of an anonymous informant when it labeled an informant a mere “tipster” and failed to balance competing interests as required by *Roviaro v. United States*, 353 U.S. 53 (1957) and its Maryland progeny?

On November 4, 2022, law enforcement services received two telephone calls from an anonymous caller. The caller disclosed that on November 4, 2022, at approximately 3:00 p.m., Stills would be driving to his place of employment in Prince Frederick, Maryland, and disclosed the location of Stills' employer. The caller claimed that there would be marijuana in the vehicle and a firearm located under the driver's seat of Stills' vehicle. The caller relayed the make, model, and license plate number of Stills' vehicle. Prior to stopping Stills, police performed a license check and determined that Stills did not have a valid driver license. The State never discovered the identity of the caller.

Based on the information provided, police located Stills in his vehicle on his way to work. Police proceeded to conduct a traffic stop and remove Stills from the vehicle. They did not observe any drugs, paraphernalia, or weapons in plain view. Police conducted a K-9 scan of the vehicle, which resulted in a positive alert by the driver's side door. A vehicle search followed, and a firearm was recovered from underneath the driver's seat, where the anonymous caller reported that it would be located. During the search, Stills told the police that he had no knowledge of the firearm under his seat, that his wife also had access to the vehicle, and that he had driven someone else earlier that day.

Stills was charged with various firearm offenses, including possession of a firearm and ammunition after having been convicted of a disqualifying crime pursuant to Maryland Code (2003, 2022 Repl. Vol., 2023 Supp.), §§ 5-133(c) and 5-133.1 of the Public Safety Article ("PS"). Prior to trial, Stills moved to compel identification of the anonymous caller, arguing that the caller was a material witness, and Stills required knowledge of the caller's identity to properly prepare a defense. The State responded, arguing that the basis for the

traffic stop was the discovery that Stills did not have a valid driver license, and the subsequent observation of Stills driving his vehicle. The court heard held a hearing regarding the motion to compel on February 10, 2023. At the hearing, the State indicated that it did not know the identity of the caller and that an investigation into the caller's identity would be “exhaustive” and “intrusive.” The court denied Stills’ motion, stating as follows:

The burden is on the Defendant to show substantial reason indicating the identity of the informer is material to his defense and fair determination of the case. The calls were made, again, by an anonymous tipster. That call was provided in discovery. And the State indicated that they’re unaware of who the caller was. The anonymous tipster is not material to the basis of the stop because the credible testimony is that that basis of the stop was driving without license. And the basis of the search was the positive K-9 scan.

The question then becomes whether the tipster’s identity is material to his defense and fair determination of the case, which is pursuant to *Elliott v. State*[, 417 Md. 413 (2010)]. The tipster did nothing more than supply the information to law enforcement who then observed the vehicle and the Defendant, not having license, conducted traffic stop.

Further, the Court has balanced the public interest in protecting the flow of information against individual’s right to prepare his defense, and based on that, the motion is denied.

The case proceeded to trial. Unable to call the anonymous caller as a witness, and declining to testify himself, Stills offered no other witnesses in his defense. Following a two-day trial, the jury found Stills guilty of possessing a regulated firearm with a prior disqualifying conviction, possessing ammunition with a prior disqualifying conviction, and driving without a license. The court sentenced Stills to eight years, one month, and 29

days. Stills appealed, arguing that the court’s denial of his motion to compel identification of the anonymous caller was in error.

STANDARD OF REVIEW

The decision of whether to compel disclosure of a confidential informant’s identity is “within the discretion of the trial court.” *Elliott v. State*, 417 Md. 413, 428 (2010). Our role is to “look to see whether the court applied correct legal principles and, if so, whether its ruling constituted a fair exercise of its discretion.” *Id.* (quoting *Edwards v. State*, 350 Md. 433, 442 (1998)). “In determining whether a court properly exercised its discretion, the question ‘is whether the court reached the right balance among the competing interests.’” *Id.* (quoting *Edwards*, 350 Md. at 441).

DISCUSSION

I. The trial court did not err in denying Stills’ motion to compel the identification of the anonymous caller.

Stills argues on appeal that the trial court erred when it denied his motion to compel the identification of the anonymous caller that informed the police that Stills had a firearm located under the driver’s seat of his vehicle. Stills contends that the anonymous caller amounted to a confidential informant, and in certain circumstances, the State may be compelled to reveal the identity of a confidential informant. The State responds, arguing that the court correctly determined that rather than an informant, the anonymous caller was simply a “mere tipster” and therefore the caller’s identity was rightfully shielded from discovery.

In *Roviaro v. United States*, the United States Supreme Court addressed whether the government could be compelled to disclose the identity of a confidential informant. 353 U.S. 53 (1957). The Court noted that the government has a “privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law.” *Id.* at 59. “The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement.” *Id.* The Court emphasized, however, that this privilege is not absolute, and “[w]here the disclosure of an informer’s identity, or of the contents of his communication, is relevant and helpful to the defense of an accused, or is essential to a fair determination of a cause, the privilege must give way.” *Id.* at 60-61. Thus, rather than imposing a strict rule as to when an informant’s identity must be disclosed, the Court noted that the inquiry “calls for balancing the public interest in protecting the flow of information against the individual’s right to prepare his defense.” *Id.* at 62. “Whether a proper balance renders nondisclosure erroneous must depend on the particular circumstances of each case, taking into consideration the crime charged, the possible defenses, the possible significance of the informer’s testimony, and other relevant factors.” *Id.*

In considering *Roviaro*, Maryland courts have noted that for a court to compel the disclosure of the identity of an informant, the defendant must “establish by a preponderance of the evidence that information about an informant is necessary to the proper preparation of his defense.” *Jones v. State*, 56 Md. App. 101, 109 (1983); *see also, Elliott*, 417 Md. 444 (“The burden is on the defendant to show a substantial reason indicating that the identity of the informer is material to his defense or the fair determination of the case.”

(cleaned up)). “Mere conjecture about the relevancy of an informant’s testimony is insufficient to compel disclosure.” *Jones*, 56 Md. App. at 109.

The *Roviaro* balancing test should be applied in all cases, “regardless of the labels attached to the informer’s role.” *Brooks v. State*, 320 Md. 516, 525 (1990). “[T]he key element is the materiality of the informer’s testimony to the determination of the accused’s guilt or innocence.” *Warrick v. State*, 326 Md. 696, 701 (1992). As such, we have recognized that “the privilege ordinarily applies where the informer is a mere ‘tipster,’ who supplies a lead to law enforcement officers but is not present at the crime, while disclosure is usually required when the informer is a participant in the actual crime.” *Brooks*, 320 Md. at 525; *see also*, *Warrick*, 326 Md. at 701. Thus, to satisfy *Roviaro* and its Maryland progeny, when presented with a motion to compel identification of a confidential informant, a trial court is required to conduct a balancing test that considers the crime charged, possible defenses, potential significance of the informer’s testimony, and any other relevant information, with particular emphasis on the possible materiality of informer’s testimony. We will only reverse if the court failed to conduct a *Roviaro* balancing test, or did not “reach[] the right balance.” *Elliott*, 417 Md. at 428.

Stills argues that the identity of the anonymous caller is material to his defense, as the caller’s knowledge that there was a firearm under the driver’s seat indicates that the caller had access to the vehicle. This information, Stills argues, would inform his defense that he had no knowledge of the firearm under the seat, as it could have been placed there by the caller instead.

In the present instance, the court found as follows:

The burden is on the Defendant to show substantial reason indicating the identity of the informer is material to his defense and fair determination of the case. The calls were made, again, by an anonymous tipster. That call was provided in discovery. And the State indicated that they're unaware of who the caller was. The anonymous tipster is not material to the basis of the stop because the credible testimony is that that basis of the stop was driving without license. And the basis of the search was the positive K-9 scan.

The question then becomes whether the tipster's identity is material to his defense and fair determination of the case, which is pursuant to *Elliott v. State*[, 417 Md. 413 (2010)]. The tipster did nothing more than supply the information to law enforcement who then observed the vehicle and the Defendant, not having license, conducted traffic stop.

Further, the Court has balanced the public interest in protecting the flow of information against individual's right to prepare his defense, and based on that, the motion is denied.

Specifically, the court indicated that the “basis of the stop was driving without [a] license. And the basis of the search was the positive K-9 scan.” Although the anonymous call may have prompted police to conduct a database search to determine whether Stills had a valid driver license, once police determined that Stills did not have a valid driver license, they had independent probable cause to stop Stills when they observed him operating a motor vehicle. As the court stated, “[t]he tipster did nothing more than supply the information to law enforcement who then observed the vehicle and the Defendant, not having license, conducted traffic stop.”² The record does not otherwise reflect that the caller was involved

² The State argues that the identity of the caller has no bearing on Stills' arrest because the traffic stop that led to his arrest was ultimately conducted after police discovered that he was operating a motor vehicle without a valid driver license. Although the State's argument is technically correct, we would be remiss to dismiss the anonymous caller's identity as irrelevant. The caller provided law enforcement with specific

in the illegal activity investigated nor any other activity that may have elevated the caller to an informant requiring identification.

Stills argues that the court simply analogized the anonymous caller to a “tipster” and denied his motion, failing to conduct any balancing test at all. As noted, a “tipster” typically refers to an individual who “did nothing more than supply information to a law enforcement officer, who did not participate in the criminal activity and may not even have been present when it occurred, and who has little or no direct knowledge of the defendant’s guilt or innocence.” *Edwards*, 350 Md. at 442. Even if an anonymous informant meets this definition of “tipster,” however, a court is still required to conduct a balancing test. *Brooks*, 320 Md. 525. We must determine whether the court conducted such a balancing test, and, if so, whether it appropriately balanced the public interest against Stills’ right to prepare a defense.

A trial judge is presumed to know and apply the law properly, and we are reluctant to find judicial error absent a clear showing in the record that the trial court made a misstatement of law or acted in a manner inconsistent with the law. *Nottingham v. State*, 227 Md. App. 592, 615 (2016). The court addressed the crimes, Stills’ right to prepare a

information about Stills’ vehicle and informed them that he was driving without a license. This information prompted police to investigate Stills. The caller further alleged there would be a firearm located under the driver’s seat -- exactly where police eventually uncovered it. Nevertheless, while the caller’s information prompted law enforcement to investigate Stills, a separate justification was established for the vehicle stop and search that ultimately uncovered the firearm. Thus, while the identity of the caller is relevant to more than just the stop of the vehicle, it was not integral to Stills’ conviction as to deem the caller’s identity so material that Stills was deprived of a defense in the absence of disclosure.

defense, and whether the caller's testimony would be material. There is no indication that Stills was unable to present his defense that he had no knowledge of the firearm in the vehicle absent the disclosure of the informant's identity. As such, we cannot say that the court abused its discretion in determining that the *Roviaro* balancing test favored nondisclosure of the anonymous caller's identity. We, therefore, affirm the trial court's denial of the motion to compel disclosure of the confidential informant's identity.

**JUDGMENTS OF THE CIRCUIT COURT
FOR CALVERT COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**