Circuit Court for Baltimore City
Case No. 123199007

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1597

September Term, 2024

DEON HUDSON

v.

STATE OF MARYLAND

Reed,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 19, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Baltimore City, Deon Hudson, appellant, was convicted of attempted second-degree murder; use of a firearm in the commission of a crime of violence; wearing, carrying or transporting a handgun; and discharging a weapon in Baltimore City. He raises a single issue on appeal: whether the trial court erred in refusing to instruct the jury on the defense of voluntary intoxication. For the reasons that follow, we shall affirm.

The evidence at trial demonstrated that appellant was sitting in the living room of his uncle's house with his uncle and two acquaintances, Dion Joyner and Kino. Following an argument, appellant walked over to his backpack, retrieved a gun, and fired multiple shots, striking Joyner in the leg and back. Joyner testified that when appellant first arrived at the house, he was talking about politics and religion and was generally "positive." Eventually, appellant suggested that they walk to a nearby liquor store to get something to drink. After they returned, the men began drinking and continued with "the positive talk." At some point, appellant "abruptly" started talking about how they should all fight Kino, apparently because of a grievance he had over a boxing match that he had lost to Kino the previous year. Kino stated that he did not want to fight, but appellant continued to suggest that they fight him. After approximately five minutes of this discussion, Joyner told appellant to "chill" and "let it go." Appellant then walked over to his backpack, retrieved a gun, pointed it at Joyner, and started shooting. According to Joyner, appellant did not appear to be intoxicated on the night of the incident.

On the other hand, appellant testified that he had consumed a pint of vodka and smoked some marijuana at a friend's house before he came to his uncle's house. He then

had several more cups of clear alcohol after they returned from the liquor store. According to appellant, they were sitting around talking and drinking, when Joyner became upset with him and began to get "aggressive." He then jumped out of his seat and started "saying a bunch of things." At this point Kino got up, causing appellant to feel like everyone was "closing in" and that he was "being boxed in[.]" Believing it was a "fight or flight" situation, appellant retrieved the gun and "started letting off shots" in an attempt to get everyone to back away. Appellant testified that he was intoxicated and impaired at the time of the shooting.

On appeal, appellant contends that the court erred in not instructing the jury on the defense of voluntary intoxication. To generate an instruction on voluntary intoxication, a defendant must "point to 'some evidence' that 'would allow a jury to rationally conclude' that his intoxication made him incapable of 'form[ing] the intent necessary to constitute the crime[.]'" *Bazzle v. State*, 426 Md. 541, 555 (2012) (footnotes and citations omitted). In *Bazzle*, the Court explained that certain phenomena, like a high blood alcohol content or illogical behavior and memory loss, while undoubtedly "some evidence" that the defendant was drunk, were "not evidence that he was unable to form a specific intent, and [were] therefore insufficient to raise a jury issue on voluntary intoxication as a defense to a specific intent crime." *Id.* at 556. In other words, a defendant must show more than "[m]ere drunkenness[.]" *Id.* at 555. To generate a jury instruction on intoxication as a defense to a crime, a defendant must produce some evidence "that he had lost control of his mental faculties to such an extent as to render him unable to form the intent[.]" *Id.* (quotation marks and citation omitted). Moreover, such evidence must "support a finding that [the

defendant's] degree of intoxication negated his ability to form a specific intent *at the time of the offense*." *Wood v. State*, 209 Md. App. 246, 315 (2012) (emphasis added).

Here, appellant claims that a voluntary intoxication instruction was generated by the following evidence: (1) his testimony that he was intoxicated due to having consumed a pint and several cups of liquor; (2) the fact that he "abruptly" shifted from talking about religion and other "positive" things to wanting to fight Kino; and (3) the fact that he "jumped to what could be considered the illogical conclusion that he was 'being boxed in' and that he had to defend himself" when other people started moving around the room. We disagree and discuss each item of appellant's asserted evidence in turn.

First, appellant's testimony that he became intoxicated after having consumed a large amount of liquor does not raise a jury issue on voluntary intoxication. That is because "[m]ere drunkenness does not equate to the level of intoxication necessary to generate a jury instruction on intoxication as a defense to a crime." *Bazzle*, 426 Md. at 555.

Moreover, evidence that appellant's conversation may have shifted at some point from "positive talk" to wanting to fight Kino also does not raise the issue. To be sure, it is possibly indicative of the behavior of somebody in a state of intoxication. But it is not evidence that he was so severely impaired that he could not form the intent necessary to constitute his crime. To hold otherwise would allow any person who expressed a desire to fight after having consumed a sufficient quantity of alcohol to raise the voluntary intoxication defense.

Finally, the issue of voluntary intoxication was not raised by appellant's alleged belief that he needed to defend himself with a firearm because he felt "boxed in." In fact,

appellant's testimony regarding the sequence of events leading up to the shooting showed the opposite, that he was in control of his mental faculties and acted intentionally in response to a perceived threat. That he may have incorrectly perceived the threat because of his intoxication does not mean, however, that he lacked the requisite intent.

In short, we are persuaded that none of the asserted evidence sufficed to generate a jury instruction on voluntary intoxication. *See Bazzle*, 426 Md. at 555-56 (holding that despite evidence that the defendant's BAC was .157, the defendant exhibited "memory loss" and "[i]llogical behavior" and that the defendant seemed "about to pass out," there was insufficient evidence that the defendant was unable to form a specific intent, so as to raise a jury issue on voluntary intoxication). Consequently, the court did not err in declining to give the instruction.

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