

Circuit Court for Baltimore City
Case No. 121180004

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1607

September Term, 2022

D'ANGELO WOODRUN

v.

STATE OF MARYLAND

Graeff,
Tang,
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: July 14, 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 persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

D’Angelo Woodrun, appellant, was charged in the Circuit Court for Baltimore City with multiple crimes, including first-degree murder, attempted first-degree murder, conspiracy, and several firearms violations. Following a five-day trial, a jury acquitted appellant of all charges except possession of a regulated firearm by a person under the age of 21. On October 28, 2022, the court sentenced appellant to the maximum sentence of five years of incarceration.

On appeal, appellant presents the following questions for this Court’s review,¹ which we have rephrased slightly, as follows:

1. Did appellant receive ineffective assistance of counsel when trial counsel failed to move for judgment of acquittal on the ground that there was insufficient evidence that appellant possessed a handgun?
2. Did the circuit court err in sentencing appellant under Md. Code Ann., Pub. Safety (“PS”) § 5-133(d) (2025 Supp.), or alternatively, did appellant’s trial attorney render ineffective assistance of counsel when he failed to argue that PS § 5-133(d) was unconstitutional as applied to appellant?
3. Did the circuit court err in sentencing appellant based on impermissible considerations?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

¹ Appellant’s questions presented were as follows:

1. Is the evidence insufficient to sustain Appellant’s conviction for possession of a handgun by a person under 21?
2. Was the circuit court’s sentence motivated by impermissible considerations?
3. Is Appellant’s sentence illegal because PS § 5-133(d) violates the Second Amendment, or, alternatively, was trial counsel ineffective for failing to argue the statute is unconstitutional as applied?

FACTUAL AND PROCEDURAL BACKGROUND

On May 23, 2021, Wayne Carpenter was “chilling, smoking, [and] drinking” on the 1500 block of Carswell Avenue. He was with a group of people, including Tayvon Kenan. Around midnight, Jordan Kenan, Mr. Kenan’s niece, had an argument with her uncle. She then called appellant and asked him to “come and smack” Mr. Kenan. Appellant and a friend came to the location, “got into it” verbally with Mr. Kenan, and then left the area.

Mr. Carpenter testified that he and Mr. Kenan eventually fell asleep on the porch. Mr. Carpenter was later awoken by a voice saying: “There you go right there.” When he turned, he saw a gunman with dreads, heard a “pow,” and was hit by two gunshots. He fell and saw a second gunman coming up the steps. The gunman who came up the steps was the “baby father.” After the shooting, Mr. Carpenter ran across the street and down an alley in the same direction as the shooters. He stopped and watched the shooters get into Jordan Kenan’s car. Mr. Carpenter then returned to the porch to check on Mr. Kenan. Mr. Kenan died at the scene from multiple gunshot wounds.

Mr. Carpenter was treated at a hospital for his injuries. Detectives met with him there and showed him a photo array of possible suspects. He identified appellant in the photo array as “shooter No. 2,” describing him as the “baby father.”²

Jordan Kenan was questioned by homicide detectives on the night of the shooting and shown a photographic array. She told detectives that she had asked appellant to come

² Prior to the start of testimony, the court denied appellant’s motion to suppress the photo array identification.

to Carswell Street that evening to “smack” Mr. Kenan. She saw appellant holding a gun with a green beam and laser as he was leaving the verbal altercation with Mr. Kenan. When she, appellant, and his friend were talking, appellant said: “Yo, pop him” to his friend. The State introduced evidence of text messages Jordan Kenan sent to her brother about the argument with her uncle and her calling appellant to confront him. On cross-examination, Jordan Kenan stated that she did not know who shot her uncle.

Lauren Riehl was the crime scene technician who responded to the shooting. She took photographs at the crime scene and collected, among other things, cartridge cases, projectiles, and metal fragments related to a firearm discharge, which were admitted into evidence. The evidence was processed for latent fingerprints, but none were recovered.

Detective Sandra Forsythe, the lead detective in this case, testified that she responded to crime scene at 2:40 a.m. and began canvassing the area for witnesses. She spoke with Mr. Carpenter at the hospital, where he picked appellant from a photo array. She also spoke with Mrs. Kenan, who identified appellant as a potential suspect.

Detective Forsythe acknowledged that, although Mr. Carpenter stated that the two shooters fled in Jordan Kenan’s car, the cell phone data showed that Jordan Kenan was in a different neighborhood at the time of the shooting. No DNA evidence was recovered from the scene.

At the close of the State’s case, appellant’s counsel made a motion for judgment of acquittal. He asked the court to find that there was “insufficient evidence as to each and every count.” The State argued that there was sufficient evidence, noting with respect to

the possession of a firearm that appellant’s birth certificate showed that he was under 21 at the time of the shooting.

The court denied the motion. After the defense rested, counsel renewed the motion, stating that there was no testimony that appellant “shot or tried to shoot Mr. Carpenter,” and “as far as anything else, I would just submit.” The court denied the motion.

As indicated, the jury convicted appellant of possession of a regulated firearm while being under the age of 21. The court sentenced appellant to five years of imprisonment, the maximum sentence for the conviction of possession of a regulated firearm while under the age of 21.

This appeal followed.³

DISCUSSION

I.

Sufficiency of the Evidence

Appellant contends that the evidence was insufficient to support his conviction for possession of a handgun by a person under the age of 21. He asserts that the State did not meet its burden of proving that appellant possessed a “handgun” as defined by statute because no weapon was recovered, the physical projectiles recovered at the scene were not

³ On July 25, 2023, the State filed a motion to stay further briefing, stating that the Supreme Court of Maryland’s forthcoming decision in *Fooks v. State*, 490 Md. 458 (2025), *cert. denied*, 146 S.Ct. 1644 (2026), would “provide guidance for the appropriate decision” in the case *sub judice*. This Court granted the motion. On June 6, 2025, the Supreme Court of Maryland issued its decision in *Fooks*, and on July 1, 2025, this Court lifted the stay.

entered into evidence, there was no evidence regarding the type of gun the projectiles came from, and the only description of the gun was that it was “black” with a “green laser.”⁴ Appellant acknowledges, as he must, that this issue is not preserved for review because counsel failed to make the argument below. He argues, however, that his trial counsel’s failure to preserve the sufficiency issue constituted ineffective assistance of counsel, and he requests that we address this claim on direct appeal.

The State contends that this Court should decline to review appellant’s claim of ineffective assistance of counsel on direct appeal. It asserts that courts rarely review ineffective assistance claims on direct appeal “because it is strongly preferable to review ineffective-assistance claims in postconviction proceedings, where a record can be made of the reasons for defense counsel’s decisions,” and the record here is insufficient to determine why appellant’s counsel did not move for judgment of acquittal on the ground that there was no proof that the gun he possessed was a handgun. The State argues that, even if considered, the evidence was legally sufficient for a factfinder to conclude that appellant possessed a “handgun.”

⁴ Section 5-133(d) of the Public Safety Article provides, with exceptions not relevant here, that “a person who is under the age of 21 years may not possess a regulated firearm.” Md. Ann. Code, Pub. Safety (“PS”) § 5-133(d) (2025 Supp.). A “regulated firearm” means “a handgun” or any of the specific assault weapons listed in PS § 5-101(r)(2). PS § 5-101(r)(1)-(2). PS § 5-101(n)(1) defines “handgun” as “a firearm with a barrel less than 16 inches in length.” To convict a defendant for unlawful handgun possession under PS § 5-133, the State must “prove beyond a reasonable doubt that [the defendant] possessed a firearm with a barrel less than sixteen inches in length.” *Washington v. State*, 179 Md. App. 32, 70, *rev’d on other grounds*, 406 Md. 642 (2008).

To establish that the assistance of trial counsel fell below constitutionally acceptable standards, “a defendant must prove that counsel’s competence failed to meet an objective standard of reasonableness and that counsel’s performance prejudiced the defense.” *Mosely v. State*, 378 Md. 548, 557 (2003). A two-part test “guides a reviewing court’s consideration of the claim of ineffective assistance of counsel.” *State v. Syed*, 463 Md. 60, 75, *cert. denied*, 589 U.S. 1080 (2019). First, the defendant must show that his or her trial counsel “performed deficiently.” *Id.* Second, “the defendant must show that he or she has suffered prejudice because of the deficient performance.” *Id.* To establish that trial counsel’s performance was deficient, the defendant must show “that counsel’s actions were not the result of trial strategy” or a reasonable tactical decision. *Id.* at 75, 84 (quoting *Coleman v. State*, 434 Md. 320, 338 (2013)). “[J]udicial scrutiny of counsel’s performance is highly deferential, and there is a strong (but rebuttable) presumption that counsel rendered reasonable assistance.” *Id.* at 75 (quoting *In re Parris W.*, 363 Md. 717, 725 (2001)).

“Generally, in Maryland, a defendant’s attack of a criminal conviction due to ineffective assistance of counsel occurs at post-conviction review.” *Crippen v. State*, 207 Md. App. 236, 250 (2012). *Accord Bailey v. State*, 464 Md. 685, 703 (2019) (Maryland’s appellate courts will “rarely consider ineffective assistance of counsel claims on direct appeal”); *In re Parris W.*, 363 Md. at 726 (“It is the general rule that a claim of ineffective assistance of counsel is raised most appropriately in a post-conviction proceeding.”). “The primary reason behind the rule is that, ordinarily, the trial record does not illuminate the

basis for the challenged acts or omissions of counsel.” *In re Parris W.*, 363 Md. at 726. *Accord Bailey*, 464 Md. at 704 (“[P]ost-conviction proceedings are preferred with respect to ineffective assistance of counsel claims because the trial record rarely reveals why counsel acted or omitted to act.”) (quoting *Mosley v. State*, 378 Md. 548, 560 (2003)).

Although there are exceptions to the rule,

[t]he rare instances in which we have permitted direct review are instructive, because they indicate our willingness to entertain such claims on direct review only when the facts in the trial record sufficiently illuminate the basis for the claim of ineffectiveness of counsel. As we explained in *In re Parris W.*, [363 Md. 717, 727, 770 A.2d 202], direct review is an exception that applies only when “the critical facts are not in dispute and the record is sufficiently developed to permit a fair evaluation of the claim.”

Crippen, 207 Md. App. at 251 (alteration in original) (quoting *Tetso v. State*, 205 Md. App. 334, 378 (2012)).

We are not persuaded that this case qualifies as one of those exceptional instances in which review of an ineffective assistance of counsel is appropriate to consider on direct appeal. The record does not reflect why defense counsel did not raise with specificity the “handgun” issue in his motion for judgment of acquittal. We note, however, that this charge was the least serious charge, and appellant was acquitted of the seven most serious charges, including murder, attempted murder, and conspiracy. Given this, it is difficult to find that appellant’s claim that his legal representation was “so egregiously ineffective that it is obvious from the trial record.” *Mosley*, 378 Md. at 564. Accordingly, we decline to consider appellant’s claim of ineffective assistance of counsel in this direct appeal.

II.

Second Amendment Claims

Appellant challenges the constitutionality of PS § 5-133(d), which prohibits, with exceptions not relevant here, individuals 18 to 21 years of age from possessing a firearm. He asserts that the statute violates the Second Amendment pursuant to *New York State Rifle and Pistol Ass’n v. Bruen*, 597 U.S. 1, 10 (2022), that he never should have been prosecuted or sentenced for this crime, and therefore, his sentence is illegal. Alternatively, he contends that his counsel was ineffective for failing to argue that the statute was unconstitutional as applied to him.

The State contends that appellant cannot raise an “unpreserved constitutional challenge” to his statute of conviction as a claim of sentence illegality, and the claim should not be reviewed on direct appeal as a claim of ineffective assistance of counsel. In any event, it argues that, PS § 5-133(d) does not violate the Second Amendment as applied to him.

Even assuming, *arguendo*, that appellant’s claim of an illegal sentence or ineffective assistance of counsel were properly before us, the underlying basis for these claims, that PS § 5-133(d) is unconstitutional, is without merit. Since appellant filed his brief, this Court decided *State v. Fields*, ___ Md. App. ___, ___, 2026 WL 1905859, at *13 (July 2, 2026), where we held that PS § 5-133(d) was constitutional as applied to individuals who are 18

to 20 years of age because it is consistent with the Nation’s historical tradition of firearm regulation.⁵

Appellant was 19 years old at the time of the offense at issue here. Because PS § 5-133(d)’s prohibition on the possession of a handgun by persons under 21 years of age is constitutional under the Second Amendment, his claims of illegal sentencing and ineffective assistance of counsel based on the age requirement in PS § 5-133(d) are without merit.

III.

Sentencing

Appellant contends that the “court’s sentence was motivated by impermissible considerations.” Specifically, he argues that, in imposing the statutory maximum of five years’ imprisonment, the court improperly considered conduct of which the jury acquitted him.

The State contends that “appellant’s five-year sentence is not a product of impermissible sentencing considerations.” It argues that a court has “virtually boundless discretion” in imposing a sentence, and it may consider a “largely unlimited range of factors,” including conduct related to acquitted charges “if the defendant’s involvement is

⁵ With regard to the first part of the *Bruen* test, we assumed, without deciding, that individuals under the age of 21 are part of the “the people” that the Second Amendment protects. *State v. Fields*, ___ Md. App. ___, ___, 2026 WL 1905859, at *10 (July 2, 2026).

shown by reliable evidence.” The State asserts that, although the court was cognizant of appellant’s acquitted charges, it “did not based its ultimate sentence on them.”

A.

Proceedings Below

As indicated, the circuit court sentenced appellant to five years of imprisonment, which was the statutory maximum and exceeded the sentencing guidelines.⁶ Prior to the court’s decision, the State argued:

The jury did, ultimately, find that [appellant] was not guilty of the underlying -- or the homicide that was related to this case.

However, [appellant] did bring a gun to a fight in which his girlfriend did call him down to get involved in. A -- someone’s life was taken, however, the jury did not believe that [appellant] was responsible for that based on possibly, testimony of witnesses

The State would, however, be asking for a -- the maximum amount of time for this offense, which would be five years, given the nature of the crime that did occur, given the fact that Ms. Kenan asked [appellant] to come down and smack her uncle, he --[appellant] came down, escalated the situation and brought a handgun with him.

In response, defense counsel stated:

And so they’re asking you to sentence him on something that the jury said no to. And said no to all of the things that happened after he left the -- after he left the area.

* * *

⁶ The State asserted that the guidelines provided for a sentence of probation to three years. Appellant’s counsel stated that the suggested sentence under the guidelines was probation to two years.

[T]he State is now asking the [c]ourt to sentence him . . . for things that happened 45 minutes later after he left . . . [T]he State wants to take the theory of the case that they couldn't prove and use it to enhance sentencing.

* * *

So I'm asking the [c]ourt not to punish [appellant] based upon the fact that the State's theory wasn't provable. . . . Your responsibility is to sentence based upon the facts of the case and to sentence upon what the jury came back with.

And when we're not happy with it, we don't just get to ask for a sentence well above the guidelines with no justification.

Appellant declined his right to allocute and no family members spoke on his behalf.

The court then sentenced appellant, as follows:

So the sentence of this [c]ourt, after a great deal of struggle because I do appreciate, [counsel], your words. I want to acknowledge and respect the hard work that the jury put in. I think you made an observation that the facts were there, they just weren't proven, which is what gives me some pause in terms of sentencing.

[Appellant], quite possibly, could have been found guilty of first degree murder and spend [sic] the rest of his life in prison. And that's not fanciful thinking on my part. I think that's a factual . . . conclusion that one could draw.

I did watch the trial. I listened to all the witnesses. And I respect the jury's decision. I do, however, believe that [appellant]'s involvement probably was much greater than what the jury, because of the lack of evidence, provable, proven evidence, demonstrated was more involved than recognized by this jury.

I am concerned about [Appellant] and I'm concerned about public safety. The number of shots that Tayvon Kenan suffered through demonstrate to me somebody who clearly has issues that should give all of us pause and the community as well.^[7]

⁷ The record reflects that Mr. Kenan sustained 17 gunshot wounds.

And unfortunately, I don't know enough about [appellant's] amenability to rehabilitation as well, except that at a young age, he found comfort in possessing a gun. I am torn between, frankly, giving Mr. [Woodrun] . . . a suspended sentence or the maximum sentence. And my job as the [c]ourt is to protect the community. And I think in this instance, the right thing to do is to sentence . . . [appellant] to Count . . . 7? Possession of a weapon by a minor to the maximum, five years sentence, a five-year sentence.

B.

Analysis

This Court will review a circuit court's sentence on only three grounds: "(1) whether the sentence constitutes cruel and unusual punishment or violates other constitutional requirements; (2) *whether the sentencing judge was motivated by ill-will, prejudice or other impermissible considerations*; and (3) whether the sentence is within statutory limits." *Abdul-Maleek v. State*, 426 Md. 59, 71 (2012) (quoting *Jackson v. State*, 364 Md. 192, 200 (2001)).

In Maryland, "the 'sentencing judge is vested with virtually boundless discretion'" in imposing a sentence. *Cruz-Quintanilla v. State*, 455 Md. 35, 40 (2017) (quoting *Smith v. State*, 308 Md. 162, 166 (1986)). The "judge is afforded such discretion 'to best accomplish the objectives of sentencing—punishment, deterrence, and rehabilitation.'" *Id.* (quoting *Smith*, 308 Md. at 166). "To achieve those objectives, the sentencing judge is not constrained simply to 'the narrow issue of guilt.'" *Id.* (quoting *Smith*, 308 Md. at 166). The sentencing judge "may take into account the defendant's 'reputation, prior offenses, health, habits, mental and moral propensities, and social background,'" *id.* (quoting *Jackson v. State*, 364 Md. 192, 199 (2001)), and it may consider "reliable evidence of conduct which

may be opprobrious although not criminal, as well as details and circumstances of criminal conduct for which the person has not been tried.” *Logan v. State*, 289 Md. 460, 481 (1981).

The court’s sentencing discretion is not, however, without limits. The court may not be “motivated by ill-will, prejudice[,] or other impermissible considerations.” *Sharp v. State*, 446 Md. 669, 685 (2016).

Here, appellant contends that the court impermissibly considered facts related to the shooting of Mr. Kenan and Mr. Carpenter, even though appellant was acquitted of charges related to the shooting. As the State notes, this Court has held that a sentencing judge “may properly consider reliable evidence concerning the details and circumstances surrounding a criminal charge of which a person has been acquitted.” *Robson v. State*, 257 Md. App. 421, 445 (quoting *Henry v. State*, 273 Md. 131, 148 (1974)), *cert. denied*, 483 Md. 520 (2023). “[B]ecause an acquittal does not necessarily establish the untruth of all the evidence introduced at trial . . . the [court] is not obliged to ignore evidence of the defendant’s involvement in an alleged offense ‘at a level less than would warrant his conviction of those crimes.’” *Curry v. State*, 60 Md. App. 171, 183 (1984) (quoting *Henry*, 273 Md. at 150), *cert. denied*, 302 Md. 130 (1985). *Accord Smith*, 308 Md. at 169 (1986) (“Our cases thus make clear that sentencing judges in Maryland may consider the criminal conduct of a defendant even if there has been no conviction.”); *Harrod v. State*, 65 Md. App. 128, 140 (1985) (consideration of potential injury to child was not an impermissible where defendant was acquitted of assaulting child but convicted of assaulting child’s mother).

Even though a court may consider acquitted conduct, however, it “may sentence only for the offenses which the defendants have been convicted and may not penalize them for other offense of which they have not been convicted.” *Curry*, 60 Md. App. at 181. In *Curry*, 60 Md. App. at 181, the defendants argued that the court’s imposition of the maximum sentence for kidnapping was based on its belief that they were also guilty of two crimes of which they had been acquitted. At sentencing, the court noted that the defendants had been convicted in the first trial of first-degree murder and use of a handgun in the commission of a crime of violence, as well as kidnapping. *Id.* at 183. After those convictions were reversed on appeal, there was a retrial. *Id.* at 174. The Court stated that the jury “which on a [retrial] heard I would assume the same evidence as the first jury did” decided “for reasons unclear to the court . . . that the State had fallen short of proving their guilt beyond a reasonable doubt in the murder and handgun case and convicted them only of kidnapping the individual who was within a few minutes later found brutally shot and killed.” *Id.* at 182. The court continued:

I do not think I am obliging [sic] to ignore the fact that the victim of the kidnapping in which they were convicted died very soon thereafter by bullets in his head. Even though the jury did not feel satisfied that the same individuals who kidnapped him killed him[,] I can at least accept if he hadn’t been kidnapped he would not have been killed.

Therefore, I find that the defendants in escaping the first degree murder and handgun convictions they previously were under—have gotten a great deal of leniency and benefit from their retrial and there is nothing in the crime or in the people who committed it which would justify my imposing a sentence of less than the maximum for the crime of kidnapping of which they were convicted.

Id. In affirming the sentence, this Court noted that the “line between penalizing a defendant for crimes for which he was acquitted *because* he was acquitted and considering, in the exercise of informed discretion, the facts and circumstances surrounding those offenses, is admittedly fine.” *Id.* at 184. We explained that, although the court “came disturbingly close to crossing that fine line,” when its statements were viewed in context, it was clear that the court did not base its sentence on the prior acquittals. *Id.*

Here, appellant asserts that the court crossed the line by using “the same facts on which the State failed to convict as means to enhance [his] sentence on the one remaining count.” We disagree.

Although the court noted that appellant “could have been found guilty of first degree murder and spen[t] the rest of his life in prison,” it then stated that it respected the jury’s decision. It stated that it was “torn” on the appropriate sentence, ranging from “a suspended sentence or the maximum sentence.” Ultimately, the court focused on its responsibility to “protect the community.” Based on the facts, this concern was supported by the record. As the prosecutor argued, when Jordan Kenan asked appellant to come down and smack her uncle, he showed up with a handgun. When viewed in context, the court’s sentencing remarks do not reflect consideration of impermissible considerations. We perceive no abuse of discretion.

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