

Circuit Court for Talbot County  
Case No.: C-20-CR-20-000213

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1661

September Term, 2022

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DONDRELL LEWIS THOMAS

v.

STATE OF MARYLAND

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Friedman,  
Shaw,  
Meredith, Timothy E.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: September 6, 2023

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

\*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Following a jury trial in the Circuit Court for Talbot County, Dondrell Lewis Thomas, appellant, was convicted of conspiracy to distribute cocaine, possession of cocaine, and possession of marijuana over 10 grams. His sole claim on appeal is that the trial court erred in denying his motion for a mistrial. For the following reasons, we shall affirm.

The State’s primary witness at trial was Sergeant Ronald Crouch. The trial court accepted Sergeant Crouch as an expert in the field of “investigation, identification of illegal controlled dangerous substances with special emphasis on street level drug sales and exchanges [including] the value of drugs exchanged on the street.” On cross examination, the following colloquy occurred:

[Defense Counsel]: Was there any indication or conversation where Mr. Banks wanted a cut in some type of profits? Like any money he might have gained, Mr. Thomas might have gained from selling or distributing any of the suspected cocaine or the marijuana?

[Sergeant Crouch]: Not all of them, the price that they agreed upon for the purchase.

[Defense Counsel]: So the only thing you know is that Mr. Banks sold Dondrell Thomas controlled dangerous substance. That’s all it is, correct?

[Sergeant Crouch]: And Mr. Thomas supplied Mr. Banks with some marijuana.

At that point, Thomas moved for a mistrial based on Sergeant Crouch’s improper prior-bad-acts testimony. The trial court indicated that it would not grant a mistrial but would instead give a curative instruction. Following the bench conference, the court instructed the jury “to disregard the last comment by [Sergeant Crouch] about any conveyance or sale of marijuana from [Thomas] to Anthony Banks, so disregard that

comment entirely.” At the close of trial, the court reinforced that instruction, telling the jury: “If after an answer was given I ordered the answer to be stricken[,] you must disregard both the question and the answer.”

Thomas’s sole claim on appeal is that the trial court abused its discretion in denying his request for a mistrial. “[A] mistrial is an extreme remedy not to be ordered lightly.” *Nash v. State*, 439 Md. 53, 69 (2014). We review a decision to deny a mistrial for an abuse of discretion. *Vaise v. State*, 246 Md. App. 188, 239 (2020). In reviewing a discretionary ruling, we will not reverse “simply because [we] would not have made the same ruling” as the trial court. *Nash*, 439 Md. at 67 (cleaned up). Moreover, “the range of a trial judge’s discretion when assessing the merits of a mistrial motion . . . is very broad,” and such a ruling “will rarely be reversed.” *Id.* at 68–69 (cleaned up).

The central question “is whether the prejudice to the defendant was so substantial that [they were] deprived of a fair trial.” *Kennedy v. State*, 436 Md. 686, 696 (2014) (cleaned up). The trial court, thus, “assess[es] the prejudicial impact of the inadmissible evidence and [then] whether the prejudice can be cured.” *Carter v. State*, 366 Md. 574, 589 (2001). “If a curative instruction is given, [it] must be timely, accurate, and effective.” *Id.*

When a defendant claims that their right to a fair trial has been infringed by the admission of inadmissible and prejudicial testimony, the trial court may consider several factors to determine whether a mistrial is required, including:

- “[W]hether the reference to the inadmissible evidence was repeated or whether it was a single, isolated statement;

- [W]hether the reference was solicited by counsel, or was an inadvertent and unresponsive statement;
- [W]hether the witness making the reference is the principal witness upon whom the entire prosecution depends;
- [W]hether credibility is a crucial issue; and
- [W]hether a great deal of other evidence exists[.]”

*Id.* at 590 (cleaned up).

Thomas contends that the curative instruction given by the trial court “did not go far enough” and did not ameliorate the prejudice caused by Sergeant Crouch’s testimony. We disagree. Generally, inadvertent presentation of inadmissible information may be “cured by withdrawal of it and an instruction to the jury to disregard it[.]” *Vaise*, 246 Md. App. at 244 (cleaned up). Under the circumstances presented here, and taking into account that the trial court was in the best position to determine the possible prejudice to Thomas, we are not persuaded that the court abused its broad discretion in declining to grant the extraordinary remedy of a mistrial.

First, Sergeant Crouch’s testimony was a single, isolated statement. And, despite Thomas’s argument to the contrary, it was responsive to counsel’s questions: Thomas’s counsel asked about whether there was “any indication” that Mr. Banks “wanted a cut” in money “Thomas might have gained from selling or distributing any of the suspected cocaine or the marijuana[.]” Thomas’s counsel followed up with “so the only thing you know is that Mr. Banks sold Dondrell Thomas controlled dangerous substance. That’s all it is, correct?” Sergeant Crouch answered the question posed to him: No, that was not “the

only thing” he knew because he also knew that, at times, their roles were reversed and Thomas sold Banks marijuana. To be sure, Sergeant Crouch was the State’s principal witness in this case, and his credibility was important. But that said, the jury acquitted Thomas of possession with intent to distribute marijuana. Logically, if the jury had improperly considered the struck testimony—that Thomas had supplied Banks with marijuana—they would have convicted Thomas of that charge. Therefore, we hold that the trial court’s decision to instruct the jury to disregard Sergeant Crouch’s remark, rather than order a mistrial, was not an abuse of discretion.

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