Circuit Court for Wicomico County
Case No.: C-22-CR-21-000207

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1708

September Term, 2021

LEVONTE JAMAR DOCKINS

v.

STATE OF MARYLAND

Arthur,
Tang,
Raker, Irma S.
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: August 4, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following trial in the Circuit Court for Wicomico County, a jury found Levonte Jamar Dockins, appellant, guilty of two counts of possession of a controlled dangerous substance (one for cocaine and one for methamphetamine).[1] Thereafter, the court sentenced him to 2 years' imprisonment.

Appellant noted an appeal. In it, he claims that the trial court erred in failing to sustain a defense objection to the State's closing argument. We disagree and shall affirm.

BACKGROUND

The evidence adduced at trial revealed the following events. On the morning of March 26, 2021, the police, pursuant to a warrant, searched the home of appellant's fiancée, Shauntee White, where she lived with her daughter. Prior to executing the search warrant, appellant had been seen coming and going from the apartment building. In addition, in the weeks leading up to the search, the police had seen appellant at the apartment numerous times.

Inside a bedroom in his fiancée's apartment which had been converted to use as storage and/or a closet, the police recovered, among other things, 57.35 grams of methamphetamine, 4.156 grams of cocaine, a spoon, scissors, rubber bands, empty plastic baggies, a digital scale, and $14,666 in cash. The methamphetamine, cocaine, spoon, and cash were recovered from a black shoe box for a pair of men's size 10.5 Air Jordan sneakers. A second scale was found on a table in the hallway. In addition, the police

[1] The jury acquitted appellant of two counts of possession with intent to distribute a controlled dangerous substance (cocaine and methamphetamine), and two counts of possession of production equipment for a controlled dangerous substance (digital scales).

recovered personal items belonging to appellant, including some mail addressed to him at a different address.

Appellant's fiancée testified for the State under a grant of immunity from prosecution. She testified that, although appellant did not live at her apartment full time, he would stay over from time to time and kept clothing, shoes, and mail there. She explained that, while appellant did not have a key to her apartment, she regularly gave him one so that he could have access to the apartment to eat, shower, or get things he needed. She explained that appellant did not have a home of his own at the time and that he would stay, when not staying with her, at various places, to include hotels and the home of the mother of one of his children. In addition, she explained that, while she had her own car, she also had a rental car (a blue Dodge Charger) that she sometimes permitted appellant to borrow.[2] She denied all knowledge of the drugs, paraphernalia, and cash found in her apartment. She testified that appellant wore a size 10.5 to 11 shoe.

She admitted that her relationship with appellant was "[v]ery [rocky]" and that they ended their engagement a couple of weeks after the search and "a little after [she] had to go to custody for – well, a custody battle with [her] daughter."

DISCUSSION

As noted above, appellant contends that the trial court erred in not sustaining a defense objection to a portion of the State's closing argument.

[2] The police found appellant's identification in the blue Charger.

"We review the trial court's ruling on objections to closing argument for an abuse of discretion." *Savage v. State*, 455 Md. 138, 157 (2017) (citation omitted). "During closing arguments, the prosecutor is allowed liberal freedom of speech and may make any comment that is warranted by the evidence or inferences reasonably drawn therefrom." *Jones v. State*, 217 Md. App. 676, 691 (2014) (cleaned up). But he or she may not argue facts not in evidence or materially misrepresent the evidence introduced at trial. *Whack v. State*, 433 Md. 728, 748-49 (2013). Moreover, the "determination of whether a portion of counsel's argument is improper or prejudicial rests largely within the trial judge's discretion because he or she is in the best position to determine the propriety of argument in relation to the evidence adduced in the case." *Ingram v. State*, 427 Md. 717, 728 (2012).

In its closing argument, the State pointed out that the police had seen appellant coming and going from his fiancée's apartment building both in the weeks preceding the search of it, and on the morning of the search. The State reviewed the drug-related items the police recovered from the apartment and the other contents of it including the clothing, mail, and other items that it believed belonged to appellant. The State emphasized that only three people had access to the apartment: appellant, his fiancée, and her 9-year-old daughter. Appellant then lodged an objection to the following portion of the State's closing argument:

> Then you heard the testimony of Shauntee White. She was the defendant's fiancé[e] on March 26, 2021. But a damper was placed on that romance. She broke up with the defendant shortly after that search and seizure warrant was executed. There were custody issues, and she needed to get away from the defendant, because she knew if she didn't, she was going to lose her child.

When asked for the basis for the objection, appellant's counsel said that the State's statement was "a complete speculation of facts not in evidence[,] [appellant's fiancée] never said those words during her testimony." After it was pointed out that appellant's fiancée "said that she was having custody issues[,]" the court ruled that the State's comment was "fair argument" and overruled the defense objection.

When the State's closing argument resumed, in an apparent effort to show that, in her testimony, she had minimized her knowledge of appellant's drug activities, the State commented that it believed that appellant's fiancée was not a "saint." The State continued, stating that: "She knew what [appellant] was doing. There was stuff out in plain view. There was a scale out in the living room." Later the State said: "She was in love with the defendant. Probably still is in love with the defendant. She allowed her behavior in her house around her child, around her."

After that the State discussed the drugs that were found, their value, and the amount of cash found in the apartment. The State encouraged the jury to draw the inference that some aspects of Appellant's fiancée's testimony did not "add up" and that she had been helping appellant "facilitate his drug trade." The State pointed out that:

> [T]here was enough money to rent a car. Now, [Appellant's fiancée] would tell you that the car was rented in her name, and it probably was. But come on. She works for the school system. She has rent. She has utilities. She has a small child, living expenses. She's renting a car. It doesn't add up. It just does not add up.

The State's closing argument then focused on demonstrating how the drugs and other items found in the apartment fit the offenses appellant had been charged with before

returning to its theme that, based on a variety of evidence, it was clear that appellant lived in the apartment and that the contraband recovered therein belonged to him.

We discern no abuse of discretion in overruling appellant's objection to the State's closing argument. In our view, when read in context, the State's argument was a fair comment warranted by the evidence.

In any event, given the state of the evidence at trial, even if the court erred, any error was harmless because we are persuaded, beyond a reasonable doubt, that the error in no way influenced the verdict. *Dorsey v. State*, 276 Md. 638, 659 (1976).

Consequently, we affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR WICOMICO COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.