Circuit Court for Baltimore City
Case No. 817263001

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1818

September Term, 2017

SYLVESTA DAYE, JR.

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Eyler, James S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: April 18, 2019

At around midnight on August 12, 2017, Silvesta Daye, Jr., went to the hospital where his estranged wife, Melissa Myers, was a patient. Ms. Myers was unconscious and could breathe only with the assistance of a ventilator. Two nurses approached and engaged Mr. Daye as he stood in the doorway of Ms. Myers's room, six to eight feet from the head of Ms. Myers's bed. After a roughly five-minute conversation, one of the nurses asked him to leave, and he left.

On October 19, 2017, a jury sitting in the Circuit Court for Baltimore City found Mr. Daye guilty of violating a protective order in effect on the day Mr. Daye went to the hospital. The circuit court sentenced Mr. Daye to six months' incarceration with all but sixty days suspended, to be served on weekends, followed by six months of supervised probation. Mr. Daye appeals and argues that the circuit court erred in declining to ask a requested *voir dire* question and to give two jury instructions he requested. We affirm.

I. BACKGROUND

Ms. Myers[1] had been a patient at the hospital for about a week on August 12, 2017. Throughout that time, she was unconscious, unable to speak or communicate, and unable to breathe without a ventilator, and had no voluntary control over her body. Sometime between 12:00 a.m. and 1:00 a.m., Margaret Davies, a nurse, saw Mr. Daye in the open doorway of Ms. Myers's room, about six to eight feet from the head of Ms. Myers's bed. Nurse Davies had not seen him before, and she testified that she and another nurse

[1] Ms. Myers's name also appears as "Meyers" in the transcript and the parties' briefs. Because it appears as "Myers" on the protective order, we use that spelling.

approached him and "asked him who he was and what was he doing here." Mr. Daye asked Nurse Davies questions about why Ms. Myers was in the hospital, but Nurse Davies did not answer "because he was not the decision maker for the family." They spoke for five to ten minutes, and when Nurse Davies asked him to leave, he complied. Nurse Davies also testified that he seemed "concerned" about Ms. Myers and was not threatening to Nurse Davies or to anyone else. Soon after, Ms. Myers was taken off the ventilator and died.

The parties stipulated that a protective order—dated April 5, 2016 and listing Ms. Myers as the petitioner and Mr. Daye as the respondent—was in effect on the date of this incident. A redacted version of the order was admitted into evidence. The order stated, among other things, that "[t]here is a preponderance of the evidence to believe that [Mr. Daye] committed the following act(s) of abuse: [REDACTED], and that Mr. Daye was not to "harass" or "contact" or "attempt to contact" Ms. Myers for the next two years, until April 5, 2018.[2]

[2] The protective order provided, among other things, that Mr. Daye "shall not" abuse, threaten to abuse, and/or harass, contact, or attempt to contact Ms. Myers:

> 1. This Order is effective through 04/05/2018 at 11:59 P.M.
>
> 2. The Respondent SHALL NOT abuse, threaten to abuse, and/or harass MELISSA MYERS.
>
> 3. The Respondent SHALL NOT contact (in person, by telephone, in writing, or by any other means) or attempt to contact MELISSA MYERS.
>
> 4. The Respondent SHALL NOT enter the residence of MELISSA MYERS at
>
> An undisclosed location for reasons of safety or wherever the protected party(ies) resides.

After jury instructions and closing arguments, the jury found Mr. Daye guilty of violating the order. He appealed, and additional facts will be supplied as necessary below.

II. DISCUSSION

Mr. Daye raises three questions[3] that we consolidate and rephrase: Did the circuit court err in declining to (1) give two of Mr. Daye's requested jury instructions and (2) ask during *voir dire* whether any potential jurors had "strong feelings" about "domestic

[3] Mr. Daye phrased the Questions Presented as follows:

> 1. Did the trial court abuse its discretion by refusing to give a "mere presence" instruction?
>
> 2. Did the trial court abuse its discretion by refusing to give an instruction regarding the State's burden to prove that Melissa Myers was alive at the time of the alleged contact?
>
> 3. Did the trial court abuse its discretion in refusing to ask potential jurors during *voir dire* whether anyone had strong feelings about domestic violence in a case involving the alleged violation of a protective order?

The State rephrased the questions as follows:

> 1. If preserved, in a prosecution for violation of a protective order, did the trial court properly exercise its discretion in declining to give the pattern jury instruction on the defendant's mere "presence at the time and place of a crime, without more?"
>
> 2. If preserved, did the trial court properly exercise its discretion in declining to instruct the jury either on the standard for making a pronouncement of death under § 5-202 of the Health-General Article or, alternatively, that to convict the defendant of violating a protective order, the jury must find that the person eligible for relief under the protective order was alive on the date of the offense?
>
> 3. Did the trial court properly decline to ask potential jurors whether they had "strong feelings" about "domestic violence"?

violence"?

A. The Circuit Court Did Not Err In Declining To Give Mr. Daye's Requested Jury Instructions.

Mr. Daye argues *first* that the circuit court erred in declining to give the "mere presence" instruction set forth in the Maryland pattern jury instructions. *See* Md. State Bar Ass'n, *Maryland Criminal Pattern Jury Instructions* 3:25, at 353 (2nd ed., 2017 Supp.). ("MPJI-Cr"). He argues *second* that the court erred in declining to instruct the jury on the "legal definition of death" that is set forth in Maryland Code (1982, 2015 Repl. Vol.), § 5-202(A) of the Health-General Article ("HG"). In the alternative, he argues that the court erred in declining to instruct the jury that the State had the burden to prove that Ms. Myers was alive when Mr. Daye was at the hospital.[4]

[4] The State argues that neither of Mr. Daye's jury instruction objections were preserved for review because he did not object to the court's omission of the instruction "promptly after the court instruct[ed] the jury," as required by Maryland Rule 4-325(e). Rule 4-235(e) provides that to preserve an objection to a jury instruction, a party must object "promptly after the court instructs the jury" unless there is plain error in the instruction. Mr. Daye does not argue plain error, and he concedes that he did not comply strictly with the Rule, but argues that he "substantially complied" with it. The State argues that no exceptional circumstance exists in this case to support substantial compliance.

After reviewing the transcript, we are satisfied that Mr. Daye complied substantially with Rule 4-325(e). He presented argument to the trial court about both proposed instructions, which included a lively and considered exchange with the court (some of which we reproduce in the discussion secton below). That exchange filled at least four full pages of transcript for the "mere presence" question and at least ten full pages for the definition-of-death/burden-to-prove-alive question. And not only was the trial court explicit in its refusal to give both requested instructions, but it also stated that the latter "is preserved for the record." Reading the transcript as a whole, we find that the court had sufficient "opportunity to correct the instruction in light of a well-founded objection," *Stabb v. State*, 423 Md. 454, 465 (2011), and that any objection after the jury was instructed would have been "futile or useless." *Gore v. State*, 309 Md. 203, 209 (1987); *see also Corbin v. State*, 94 Md. App. 21, 27 n.2 (1992).

A defendant "is entitled to have the jury instructed on any theory of the defense that is fairly supported by the evidence." *Fleming v. State*, 373 Md. 426, 432 (2003). "[I]f the requested instruction has not been generated by the evidence, the trial court is not required to give it." *Id.* A trial court must give a requested jury instruction where "(1) the instruction is a correct statement of law; (2) the instruction is applicable to the facts of the case; and (3) the content of the instruction was not fairly covered elsewhere in instructions actually given." *Dickey v. State*, 404 Md. 187, 197–98 (2008). But a defendant has not been prejudiced and reversal is not required where the jury instructions, "taken as a whole, [] correctly state the law, are not misleading, and cover adequately the issues raised by the evidence . . . ." *Fleming*, 373 Md. at 433. We review a trial court's grant or denial of a jury instruction request for abuse of discretion. *Stabb v. State*, 423 Md. 454, 465 (2011).

1. The Circuit Court Did Not Err In Declining To Give A "Mere Presence" Instruction.

Mr. Daye argues that the circuit court erred when it denied his request for a "mere presence" jury instruction, an instruction grounded in the "universally accepted rule of law that mere presence of a person at the scene of the crime is not of itself sufficient to prove the guilt of that person, even though it is an important element in determination of the guilt of the accused." *Fleming*, 373 Md. at 433. The concept "appears early in the law initially in the context of accomplice liability," but "the modern view . . . finds it applicable to narcotic cases." *Id.* at 433–34 (citing cases). For example, a defendant's "mere proximity to the drug, mere presence on the property where it is located . . . is insufficient to support a finding of possession." *Taylor v. State*, 346 Md. 452, 460 (1997) (*quoting Murray v.*

United States, 403 F.2d 694, 696 (9th Cir. 1969)). But it does not appear to be limited solely to accomplice and drug cases and accordingly, the pattern instruction, MPJI-Cr 3:25, provides that a person's presence at a crime scene is insufficient to prove that he or she committed the crime:

> A person's presence at the time and place of a crime, without more, is not enough to prove that the person committed the crime. The fact that a person witnessed a crime, made no objection, or did not notify the police does not make that person guilty of the crime. However, a person's presence at the time and place of the crime is a fact in determining whether the defendant is guilty or not guilty.

Mr. Daye argues that his primary defense to the charge here "was that he was in the hospital to query the hospital staff about his wife's medical condition—not contact or harass [her]—[and] thus, his 'mere presence at the hospital' did not constitute a violation of the protective order." Put another way, Mr. Daye argues that his presence at the hospital—alone—is not sufficient to establish violation of a protective order, and that the jury should have been instructed as such.

In order to prove that Mr. Daye was guilty of violation of a protective order, the State was required to prove beyond a reasonable doubt the following, as the circuit court stated in its instructions to the jury:

> In order to convict the Defendant of violating a Protective Order, the State must prove that a Protective Order was issued, that the Protective Order required the Defendant to refrain from contacting, attempting to contact or harassing [Ms. Myers]. **That the Defendant violated the Order by contacting or attempt[ing] to contact or harassing [Ms. Myers]**. That the Defendant knew of the Order and that the Protective Order was in fact in effect at the time of the alleged violation.

(Emphasis added.) Mr. Daye does not argue that these instructions were incorrect; indeed, they are consistent with both the pattern jury instruction for violation of a protective order (MPJI-Cr: 4:26A) and the related statute, Maryland Code (2012 Repl. Vol., 2017 Supp.), § 4-506(d)(2) of the Family Law Article. The element at issue here—as indicated in the bold text above—was whether Mr. Daye attempted to contact or harass Ms. Myers.

Mr. Daye's position is that the State could not prove beyond a reasonable doubt harassment, contact with, or an attempt to contact Ms. Myers by presenting *only* evidence of Mr. Daye's presence at the hospital in the vicinity of Ms. Myers. He argues that he was at the hospital for the purpose of inquiring about Ms. Myers's condition, not for the purpose of contacting or attempting to contact her. His counsel presented that argument in the following exchange with the circuit court, after which the court decided that the "mere presence" instruction was not applicable as a matter of law and would result in confusing the jury:

> [MR. DAYE'S COUNSEL]: . . . I think that there's a possible finding of the facts that he was merely present to check on her medical condition to check on her, and if that's what the jury believes, that is not enough to meet the State's burden of proof for guilty.
>
> THE COURT: That's for them to decide though.
>
> [MR. DAYE'S COUNSEL]: Well, without the instruction, they may not know that.
>
> THE COURT: No. No, no, no. I think we're mixing [apples] and oranges. Of course, I'm giving the instruction that the State bears the burden. What I'm saying is -- what you're saying to me is, let's say for sake of argument that we don't contest that Mr. Daye was present at the hospital. We don't even contest that he went to her hospital room or the floor where she was being treated. We don't contest that he had a conversation with

> Nurse Davies about her condition.
>
> You're asking me to instruct them that that alone does not amount to a violation of the Protective Order, and I'm saying that's for them to decide because they can infer from the evidence that going to the hospital at all and going toward her room is enough to find that he attempted to contact her.
>
> [MR. DAYE'S COUNSEL]: Your Honor, my recollection of what 3:25 does, does not direct them that mere presence is not proof in any way. It's just one fact for them to [weigh], but mere presence may not be enough. They have to look at the other evidence of intent, and I forget the exact language. I don't think that the instruction does what you're worried it will do in directing them somehow to find that he's not guilty. They still have to consider other factors.
>
> THE COURT: But see, here's the problem. **It says a person's presence at the time and place of a crime.** It's bootstrapping. I mean, it's sort of circular in some way and I'm sure I'm using the wrong terminology, but it's sort of, you know, using the word to define the very word because **the issue is whether his presence is sufficient to animate the element of attempting to contact or contact.**
>
> **So to say that his presence isn't enough without more to prove that he violated the Protective Order is inaccurate as a matter of law.**
>
> [MR. DAYE'S COUNSEL]: I certainly believe you've given me ample time to make my objection as well.
>
> THE COURT: I think. And if I'm wrong – I mean, and I know, you know, I think Counsel know me well enough to know [] I'm happy to be educated to the contrary, but **I think that confuses the issue unfairly and so at my own peril I'm not going to give it.**

(Emphasis added.)

We agree that the mere presence instruction wasn't warranted here. As an initial matter, "[a] mere presence instruction is not necessary when the jury is instructed properly on the elements of the crime." *Fleming*, 373 Md. at 435. This jury was instructed properly

on the elements of the crime of violation of a protective order. And we agree with the circuit court that the instruction didn't apply to the facts of this case and would have been misleading. *See Dickey*, 404 Md. at 197–98. This case is not like narcotics cases in which the instruction is commonly used, where "[t]he purpose of a mere presence instruction [] is to inform the jury that simply because the defendant was in close proximity to the drugs in question, it may not infer knowledge and intent to exercise dominion and control from that fact alone." *Fleming*, 373 Md. at 439. Here, the evidence revealed not only Mr. Daye's presence at the hospital and his knowledge that a protective order was in place, but also that he stood in the doorway of Ms. Myers's room at midnight, six to eight feet from the head of Ms. Myers's bed, while Ms. Myers was unconscious. The circuit court did not abuse its discretion in deciding that the instruction risked misleading the jury into believing that a not-guilty verdict was required.

2. The Circuit Court Did Not Err In Declining To Instruct The Jury On The Legal Definition of "Death" Or That It Was The State's Burden To Prove That Ms. Myers Was "Alive."

Mr. Daye argues *next* that the court abused its discretion in declining to instruct the jury on the legal definition of "death," or, in the alternative, that the State had the burden to prove that Ms. Myers was "alive." He asked first that the court read to the jury the text of HG § 5-202(a), part of Title 5 of the Health – General Article that concerns such topics as the State Postmortem Examiners Commission, HG § 5-301 *et seq.*; the Anatomy Board, *id.* § 5-401 *et seq.*; the Health Care Decisions Act (including law concerning advance directives), *id.*, § 5-601 *et seq.*; and child fatality review teams, *id.*, § 5-701 *et seq*. The

section on which Mr. Daye relies appears at the beginning of Title 5:

> (a) An individual is dead if, based on ordinary standards of medical practice, the individual has sustained either:
>
> (1) Irreversible cessation of circulatory and respiratory functions; or
>
> (2) Irreversible cessation of all functions of the entire brain, including the brain stem.
>
> (b)(1) This subsection does not apply to the removal of a vital organ while the individual is alive, if the individual gives informed consent to the removal.
>
> (2) A pronouncement of death under this section shall be made before any vital organ is removed for transplantation.

HG § 5-202. Mr. Daye asked specifically that the court read the first part—subsection (a)(1)—to the jury. After hearing argument, the court declined Mr. Daye's request, and Mr. Daye requested an alternative instruction: "In order to find Mr. Daye guilty, you must find that Melissa [Myers] was alive on August 12th, 2017." After hearing additional argument, the court denied that request as well.

In response to Mr. Daye's arguments, the circuit court acknowledged, on the one hand, that victim crimes at least implicitly require the victim to be alive, but on the other, that the victim's being alive is not an affirmative element of the charge, and that the instruction he wanted could confuse the jury:

> THE COURT: . . . I suppose[] with the exception of crimes where [] an element involves [] doing something to a dead body, that there is certainly implicit in the victim crimes that the person who is alleged to have been the victim was not dead at the time. I mean, I think I grant you that.
>
> We're also in the position where it is not otherwise an express affirmative element of the charge in this matter, that the State prove that the victim was not dead or alive, whatever that

> means.
>
> So you know, I think we can agree that those things are true. To me, **I think that on some level it does confuse the issue that the State has an express affirmative duty to prove at the first, that the victim was, in fact, living and not [dead]. That is at least from a literal standpoint, not an actual element of the charge.**

(Emphasis added.)

The court went on to discuss how the request seemed to raise the defense of legal impossibility, and observed that Mr. Daye did not offer evidence of that defense:

> So this is a fascinating issue and I'm sure I'll be reading more about it because I'm interested, but I think I will not give that instruction because it's not at this point, I think, fair to put on the State that it is an affirmative element that the State at the outset has to prove in a case of this nature and I think that it does put upon the jury something to decide for which they [have not been] given the proper tools to decide. I mean, you know, even though I think we are all somewhat on the agreement that, at least sort of informally, that we think that people need to be alive in order to be the beneficiary of a Protective Order.
>
> I am concerned that it inappropriately requires of the State something that the law does not expressly state. I think that it confuses a defense of legal impossibility with a requirement of the State and, again, [I'm] very cautious not to dip my foot in the pool of asserting that a Defendant is required to prove his innocence, but if essentially you're proving that it's legally impossible or sort of somewhat akin to an alibi if you will, that the onus was not on the State to prove that, and so I will not give that instruction.

And with regard to the legal definition of death under HG § 5-202(a), the circuit court observed further that Mr. Daye had offered no expert or other testimony on the relatively complex question of whether a person who is not functioning as a healthy person can be considered "alive":

> The other issue I have is that I certainly don't disagree that Ms. Davies' testimony indicated that Ms. [Myers] was, you know, not functioning as a healthy individual would, in terms of being conscious and alert and capable of self care and things that we all enjoy as healthy individuals. My concern is that there's language in the Health General section, even if I were to find that this is an appropriate issue of an instruction, that I think is a complex medical subject area that if I were to give this instruction, for example, it requires the jury to consider what ordinary standards of medical practice are and it requires the jury to understand what irreversible cessation means. These things are certainly areas that I will admit expert testimony, assuming that there were a qualified expert present to do so because they are outside the [ken] of the average layperson. If there are issues, in fact, expert testimony would have been helpful to assist a jury in determining the facts or finding the facts with respect to whether or not this definition was met.

We hold that the court did not abuse its discretion in declining to give these instructions. Mr. Daye cited no law supporting either the propriety of using HG § 5-202(a)—a definition of death used in health care regulation—as a jury instruction. Nor did he cite any authority for the proposition that the State must prove that the victim of a protective order violation is "alive" in order to prove violation of a protective order, and indeed even acknowledged that ruling in his favor would be "making new law."

Moreover, as the circuit court observed, the evidence did not support the instruction. It is an open question whether legal impossibility or factual impossibility would apply here, and it is additionally an open question whether the defense of legal impossibility is recognized under Maryland law. *See Grill v. State*, 337 Md. 91, 96 (1995). But we need not resolve those interesting questions because Mr. Daye neither asserted an impossibility defense nor presented any evidence that could have supported it. And although Mr. Daye,

as the defendant, was entitled to "have the jury instructed on any theory of the defense that is fairly supported by the evidence," a trial court is *not* required to give an instruction that has not been generated by the evidence. *Fleming*, 373 Md. at 432. Nurse Davies testified that Ms. Myers was "unconscious" and that she did not "know about [Ms. Myers's] brain activity." She testified that Ms. Myers was unable to breathe on her own, but did not testify that she was not breathing. She testified that Ms. Myers was taken off the ventilator several days after the incident, and only then that she died. In short, the proposed instructions about whether or not Ms. Myers was alive were not generated by the evidence, and the jury instructions that were given correctly stated the law, were not misleading, and covered adequately the issues raised by the evidence presented. *Stabb*, 423 Md. at 465; *Fleming*, 373 Md. at 433.

B. The Circuit Court Did Not Err In Declining To Ask During *Voir Dire* Whether Any Potential Jurors Had "Strong Feelings" About "Domestic Violence."

Mr. Daye argues *next* that the circuit court erred by declining to ask potential jury members whether they had any "strong feelings" about domestic violence. We disagree.

Voir dire is "'the process by which prospective jurors are examined to determine whether cause for disqualification exists.'" *Moore v. State*, 412 Md. 635, 644 (2010) (*quoting Dingle v. State*, 361 Md. 1, 9 (2000)). *Voir dire* "is critical to" implementing the right to an impartial jury, as it is guaranteed by the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights. *Stewart v. State*, 399 Md. 146, 158 (2007). An appellate court reviews a court's decision to ask (or not to ask) a

voir dire question for abuse of discretion. *Pearson v. State*, 437 Md. 350, 356 (2014).

"On request, a trial court must ask a *voir dire* question if and only if the *voir dire* question is reasonably likely to reveal specific cause for disqualification." *Id.* at 357. (cleaned up). "There are two categories of specific cause for disqualification: (1) a statute disqualifies a prospective juror; or (2) a collateral matter is reasonably liable to have undue influence over a prospective juror." *Id.* (cleaned up). The latter category is at issue here, and it includes "biases directly related to the crime." *Id.* To assist in uncovering biases, a trial court, on request, must ask during *voir dire*: "Do any of you have strong feelings about [the crime with which the defendant is charged]?" *Id.* at 363 (brackets in original); *Collins v. State*, No. 54, September Term, 2018. Slip Op. at 23, -- Md. -- (April 2, 2019) (reaffirming *Pearson*'s formulation of the question).

In this case, the trial court asked the jury panel whether any of them "has strong feelings about the charges at issue in this case":

> The Defendant in all cases has a constitutional right to a fair trial and the jury of course plays a critical role. A jury's job is to consider the evidence fairly and impartially and to deliver a verdict based solely on the evidence. **The question is whether any jury panel has strong feelings about the charges at issue in this case,** understanding that this case does not involve any allegations regarding handguns or any other weapons. Understanding that, **does any member of the panel have strong feelings about the charges at issue in this case?**

Earlier during *voir dire* questioning, the court had described the charges as follows:

> The Defendant in this case, Mr. Daye is charged with committing the following crimes. On August 12, 2017 at the University of Maryland Medical Center located at 22 South Greene Street, Baltimore City, he is charged with committing

the crime of violation of a Protective Order.

After the trial court finished the *voir dire* questioning, counsel for Mr. Daye requested that the court also ask the jury panel about whether they had "strong feelings" about "domestic violence" in particular:

> [COUNSEL FOR MR. DAYE]: May I be heard about a couple of incidents? I should have anticipated. One of your questions about having strong feelings doesn't mention domestic violence in particular and because this is a Protective Order case and because we've got no responses, which is highly unusual in Protective Order cases --
>
> THE COURT: No, it's not unusual at all. No, I did specifically mention the charge and I asked if there were strong feelings about the charges at issue in this case and Counsel didn't object to this question when it was posed but --
>
> [COUNSEL FOR MR. DAYE]: That's true. I'm just asking that because I have domestic violence (inaudible).
>
> THE COURT: I'm not going to add that at this time. I mean the question is about Protective Orders [].

Mr. Daye argues that the requested *voir dire* question was mandatory because it "went directly to the nature of the crime," namely violation of a protective order—that is, a protective order that resulted from allegations of domestic violence. That takes the "strong feelings" principle a step too far. By the time Mr. Daye's counsel made the request, the court had already asked the "strong feelings" question with precisely the same wording that the Court of Appeals has held is required. *Pearson*, 437 Md. at 363. He asked for something different: he wanted the court to re-word a question that had already been posed,

and no case that we have found requires that.[5]

But even if Mr. Daye had requested his formulation of the "strong feelings" before the circuit court had asked the question as framed by the charge, the court would not have abused its discretion to decline. It's true that domestic violence is "one of those offenses that has the potential to evoke strong feelings," as Mr. Daye asserts. But although there *might* be some cases in which it would be appropriate to ask a "strong feelings" question about "domestic violence," this is not one of them. The crime charged here did not arise directly from allegations of domestic violence or abuse, even if the underlying protective order might have. Not only were there no allegations that Mr. Daye caused Ms. Myers's hospitalization, there was also no testimony that Mr. Daye acted aggressively, abusively, or threateningly at the hospital. Beyond the single mention of "abuse" on the protective order, the jury had no evidence of any of the particulars that led to the issuance of the protective order—to the contrary, the particular actions leading to the entry of the protective order were redacted from the exhibit. The court did not err in declining to inject potential strong feelings about domestic violence into the *voir dire* equation.

Finally, Mr. Daye points out that several jurors disclosed some experience with

[5] In the cases Mr. Daye does cite, the trial courts had declined to ask the "strong feelings" question in any formulation. *State v. Shim*, 418 Md. 37, 42, 54–55 (2011) (circuit court abused discretion in declining to ask—in murder case—whether prospective jurors had "strong feelings concerning the violent death of another human being"), *abrogated on other grounds by Pearson*, 437 Md. at 363; *Thompson v. State*, 229 Md. App. 385, 402, 405 (2016) (circuit court abused discretion in declining to ask—in case in which defendant was charged with "possession of a shotgun by a prohibited person"—whether prospective jurors had "strong feelings regarding the possession of firearms").

protective orders and domestic violence in response to other *voir dire* questions, and that several of these prospective jurors were dismissed for cause. He suggests that this shows that the "strong feelings" question as posed was ineffective in uncovering prospective jurors' biases. To the contrary, the fact that those feelings came out in response to other *voir dire* questions suggests that the additional question wasn't necessary, and bolsters the circuit court's decision not to ask an alternative formulation of the "strong feelings" question after *voir dire* was complete.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. APPELLANT TO PAY COSTS.