Circuit Court for Anne Arundel County
Case No. C-02-CR-16-001526

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1970

September Term, 2017

JOHN M. GARRISON

v.

STATE OF MARYLAND

Nazarian,
Arthur,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: August 22, 2018

Appellant, John M. Garrison, was convicted by a jury in the Circuit Court for Anne Arundel County of possession of cocaine and possession with the intent to distribute cocaine. Garrison's convictions were merged for sentencing purposes. The court sentenced him to 10 years of incarceration, with all but one year suspended, and ordered supervised probation for three years upon his release.

Garrison poses three questions (which we have rephrased slightly) in this timely appeal:

I. Did the trial judge abuse his discretion by admitting irrelevant and prejudicial evidence in the course of direct examination by the State of Detective Eric Newton?

II. Did the trial judge abuse his discretion by permitting the State to ask Garrison on cross-examination if he had called the police [after shooting at the alleged intruders at his residence]?

III. Is the evidence legally sufficient to sustain the convictions?

The Evidence

On 9 July 2016, Anne Arundel County Police Detective Jason DiPietro responded to a residence at 7689 Sandy Farm Road, Severn, MD (the "residence"), to investigate a reported discharge of a firearm.[1] Upon his arrival, DiPietro observed two deceased men whose bodies bore apparent gunshot wounds. The decedents were Duane Mason and Timothy Kerr.

DiPietro was met at the residence by Eugene Johnson, Garrison, and two women.

[1] The record does not reveal the identity of the person who called the police to report the shooting.

DiPietro interviewed the quartet. He determined that Garrison was the owner of the residence. Johnson resided intermittently there with Garrison over the past three months. The two women were guests for the evening only.

At DiPietro's request, Detective Matthew Wires, assigned to the Anne Arundel County Major Narcotics Section, obtained a search warrant for the residence and surrounding property. Corporal Eric Cole, a K-9 officer, with a drug detection dog named Koda, arrived and conducted a K-9 drug-sniff search. Koda alerted to the presence of narcotics in the yard behind the residence. Cole observed a pile of unearthed grass concealing (unsuccessfully) several objects. Under the grass, Cole found a length of white PVC pipe and, within it, a clear zip-lock baggie containing a rock-like substance; a digital scale; and a stainless steel travel mug containing a "bundle of currency" totaling $6,140.00 and several, varying-sized, sealed zip-lock bags containing substances he suspected to be narcotics. DiPietro conducted a field test of the substances, resulting in an indication that they were cocaine.

Garrison was arrested. The State charged him with possession of cocaine and possession with intent to distribute cocaine. During the jury trial conducted over 14-15 November 2017, Emilie Dembia, a forensic chemist with the Anne Arundel County crime laboratory, testified as a State's expert witness in "forensic serology and DNA analysis." She had obtained DNA samples from Johnson, Garrison, and the two shooting victims. She obtained and processed also DNA swabs from the digital scale, PVC pipe, and travel mug. Her conclusion was that the major component of the DNA mixture on the PVC pipe,

travel mug, and digital scale samples matched Garrison's DNA profile.[2]

Robert J. Llano, testifying as a State's expert witness in forensic chemistry, tested and analyzed the substances contained within the sealed zip-lock baggies seized from the grassy "knoll" behind the residence. He identified as cocaine the contents of all the sealed zip-lock baggies. Detective Eric Newton, assigned to the Anne Arundel County Heroin Task Force, testified as a State's expert witness on "the illegal drug trade." He explained that 45 grams of cocaine were recovered from the PVC pipe, with a "street" value of $4,500.00. Further, Newton testified that one zip-lock baggie recovered from the travel mug contained 125 grams of cocaine with a "street" value of $12,500.00. The remaining baggies contained varying quantities (three to three and one-half grams) of cocaine valued similarly at approximately $250.00 - $350.00. Thus, the estimated value of the cumulative cocaine seized was $17,500.00 to $17,900.00 – an amount Newton considered typical for distribution, but not for personal use.

Garrison elected to testify in his own defense. He explained that Johnson had been staying with him at the residence for the past three months. During the evening of 9 July 2016, Garrison, Johnson, and the two women were watching a movie at home. Garrison claimed to hear aggressive knocking and kicking at the front door. Believing that someone was attempting to invade his castle, he fired a shotgun through the front door to defend himself. He claimed that he was unacquainted with the men he shot. Although Garrison did not call the police after firing his gun, he presumed the police responded nonetheless

[2] Kerr, Mason, and Johnson were excluded as the source of the major component of the DNA mixtures from the evidence.

because he heard a helicopter overhead.

Immediately after the shooting, Johnson and the women retreated to Garrison's bedroom. Johnson emerged eventually from the bedroom, holding (among other things) a digital scale. He dropped the scale to the floor. Garrison picked up the scale, and handed it back to Johnson. Johnson left the dwelling, carrying the scale and what appeared to Garrison to be several plastic baggies. Johnson returned eventually to the residence empty-handed. Garrison claimed he never saw the PVC pipe, drugs, or money. In any event, he disclaimed that any of it belonged to him. The travel mug, however, he acknowledged was his property. At the close of all evidence, Garrison's counsel moved for judgment of acquittal. The judge denied the motion.

We will supplement our analysis with additional facts as they may be pertinent.

Standard of Review

All relevant evidence, i.e., evidence that tends to establish or refute a fact at issue in the case, is generally admissible. *See* Md. Rules 5-402, 5-403. Trial courts "'retain wide latitude in determining what evidence is material and relevant.'" *Phoenix Services Ltd. P'ship v. Johns Hopkins Hosp.*, 167 Md. App. 327, 408, 892 A.2d 1185, 1233 (2006) (quoting *Merzbacher v. State*, 346 Md. 391, 413, 697 A.2d 432. 443 (1997)). Thus, a trial court's rulings on the relevancy of evidence are reviewed for "abuse of discretion." *Matthews v. Md.-Nat'l Capital Park & Planning Comm'n*, 368 Md. 71, 91, 792 A.2d 288, 300 (2002); *see also Figgins v. Cochrane*, 403 Md. 392, 419, 942 A.2d 736, 752 (2008).

The Court of Appeals in *State v. Simms*, 420 Md. 705, 724–25, 25 A.3d 144, 155–56 (2011), explained that:

> [w]hile trial judges are vested with discretion in weighing relevancy in light of unfairness or efficiency considerations, trial judges do not have discretion to admit irrelevant evidence. In *Ruffin Hotel Corp. of Md. v. Gasper*, 418 Md. 594, [619,] 17 A.3d 676[,690–91] (2011), [the Court of Appeals] explained the standards by which we review the admission, or exclusion, of evidence, stating:
>
> > It is frequently stated that the issue of whether a particular item of evidence should be admitted or excluded "is committed to the considerable and sound discretion of the trial court," and that the "abuse of discretion" standard of review is applicable to "the trial court's determination of relevancy." *See e.g. Merzbacher v. State,* 346 Md. 391, 404–05, 697 A.2d 432, 439 (1997). M[d.] Rule 5–402, however, makes it clear that the trial court does not have discretion to admit irrelevant evidence. . . . [T]he "de novo" standard of review is applicable to the trial judge's conclusion of law that the evidence at issue is or is not "of consequence to the determination of the action." *Parker v. State,* 408 Md. 428, 437, 970 A.2d 320, 325 (2009), (citations omitted) (quoting *J.L. Matthews, Inc. v. Md.-Nat'l Capital Park & Planning Comm'n*, 368 Md. 71, 92, 792 A.2d 288, 300 (2002)).
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> . . . Thus, [an appellate court] must consider first, whether the evidence is legally relevant, and, if relevant, then whether the evidence is inadmissible because its probative value is outweighed by the danger of unfair prejudice, or other countervailing concerns as outlined in Maryland Rule 5–403. *See Thomas v. State*, 372 Md. 342, 350, 812 A.2d 1050, 1055 (2002) []. During the first consideration, [an appellate court] test[s] for legal error, while the second consideration requires review of the trial judge's discretionary weighing and is thus tested for abuse of that discretion.

(internal citations omitted).

The Court of Appeals in *State v. Manion*, 442 Md. 419, 430–32, 112 A.3d 506, 513–14 (2015), explained recently the standard of review for assessing the sufficiency of the evidence to sustain a criminal conviction:

> It is the responsibility of the appellate court . . . to determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Our concern is only whether the verdict was supported by sufficient evidence, direct or circumstantial, which could fairly

> convince a trier of fact of the defendant's guilt of the offenses charged beyond a reasonable doubt. Making this determination does not require the appellate court to ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.
>
> Indeed, we are mindful of the respective roles of the appellate court and the trier of fact; it is the trier of fact's task, not the court's, to measure the weight of the evidence and to judge the credibility of witnesses. The appellate court gives deference to "a trial judge's or a jury's ability to choose among differing inferences that might possibly be made from a factual situation[.]" *State v. Smith*, 374 Md. 527, 534, 823 A.2d 664, 668 (2003). "We do not second-guess the [trier of fact's] determination where there are competing rational inferences available." *Smith v. State*, 415 Md. 174, 183, 999 A.2d 986, 991 (2010). It is simply not the province of the appellate court to determine "whether the [trier of fact] could have drawn other inferences from the evidence, refused to draw inferences, or whether we would have drawn different inferences from the evidence." *Smith*, 415 Md. at 184, 999 A.2d at 991. Such deference is accorded, in part, because it is the trier of fact, and not the appellate court, that possesses a better opportunity to view the evidence presented first-hand, including the demeanor-based evidence of the witnesses, which weighs on their credibility. *Walker v. State*, 432 Md. 587, 614, 69 A.3d 1066, 1082 (2013).
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> In other words, "when evaluating the sufficiency of the evidence in a non-jury trial, the judgment of the trial court will not be set aside on the evidence unless clearly erroneous[.]" *State v. Raines*, 326 Md. 582, 589, 606 A.2d 265, 268 (1992). We apply this standard "to all criminal cases, including those resting upon circumstantial evidence, since, generally, proof of guilt [beyond a reasonable doubt] based in whole or in part on circumstantial evidence is no different from proof of guilt based on direct eyewitness accounts." *Smith*, 374 Md. at 534, 823 A.2d at 668. In other words, similar to instances involving the presentation of direct evidence, where the determination of the accused's guilt is formed entirely upon the basis of circumstantial evidence, such evidence must permit the trier of fact to infer guilt beyond a reasonable doubt, and must not rest solely upon inferences amounting to "mere speculation or conjecture." *Smith*, 415 Md. at 185, 999 A.2d at 992.

(internal citations, quotation marks, and alterations omitted).

Analysis

I. Detective Newton's Testimony.

During the testimony of Detective Newton as a State's witness at trial, the following colloquy ensued, which contains the catalyst of Garrison's first appellate challenge:

> [THE STATE]: Detective, can you describe how cocaine moves down the production line?
> [GARRISON'S TRIAL COUNSEL]: Objection.
> THE COURT: At the bench.
> (Counsel approached the bench)
> THE COURT: How is that relevant?
> [THE STATE]: It's completely relevant, your Honor. Because cocaine comes in in kilos. It needs to be broken down for street level sale. It needs to be weighed on digital scales. It needs to be placed into baggies.
> THE COURT: Okay.
> [THE STATE]: It needs to be --
> THE COURT: Okay. Do you want to be heard?
> [GARRISON'S TRIAL COUNSEL]: I would. My client is charged with possession with the intent to distribute. The State is asking a bunch of questions about manufacturing, production, transport and trafficking. I don't think it's relevant. I think it's more prejudicial than probative. I think that based upon the charge that he is facing she can certainly ask whether scales are used or if the presence of a scale is indication of an intent to distribute. But –
> THE COURT: Okay.
> [THE STATE]: But it doesn't paint the whole picture for the jury. And I guess they're going to argue that, yes, his DNA is on there but there's other people, too. Well, in the drug trade drugs pass many, many people's hands and they need to understand that.
> THE COURT: I'm going to overrule that objection.

Garrison avers that the trial court abused its discretion in overruling his objection. According to him, Detective Newton's testimony regarding how cocaine is "divided up, diluted, and measured using scales was not relevant to any contested issue in this case." Specifically, Garrison notes that he was charged only with two possessory offenses. Thus, the "testimony relating to 'manufacturing, production, transport and trafficking' was not

relevant to those offenses." Garrison argues, alternatively, that even if Newton's testimony in this line of questioning was relevant, it should have been excluded under Md. Rule 5-403 for being far more prejudicial than probative.

The State, in response, points-out that Garrison was charged under Md. Code (2002, 2012 Repl. Vol.), § 5-602 (2) of the Criminal Law Article ("Crim. Law."), which states that a person may not "possess a controlled dangerous substance in sufficient quantity *reasonably to indicate under all circumstances* an intent to distribute or dispense a controlled dangerous substance." (emphasis added). Thus, according to the State, Newton's testimony was relevant to the jury's determination of whether Garrison possessed the cocaine with intent to distribute.

Md. Rule 5-401 defines "relevant evidence" as evidence having "*any* tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." (emphasis added). Thus, the charge of possession with intent to distribute cocaine requires proof that Garrison possessed (actually or constructively) cocaine in such a quantity that it would be reasonable "under all circumstances" to indicate "an intent to distribute or dispense" cocaine. Crim. Law § 5-602 (2). The State admitted as evidence, among the items seized, numerous zip-lock baggies in varying sizes containing cocaine recovered from the yard behind Garrison's residence. In informing the jury of the methodology and proclivities of the cocaine distribution industry, Detective Newton testified that:

> cocaine that comes into our area will generally come in from one of the outside cities areas, source cities. It will be brought in to a particular person, whoever orders it, purchases it. The regional wholesaler, per se. Once that's

> brought to them they could sell it off or give it to other individuals in reference to their drug trafficking organization, in its entirety. Generally once it comes in that person will take that, divide that up into portions, add additional items to it -- chemicals of some sort -- to be able to take the yield of, say, a kilo or a thousand grams – you could break that in half and now you have two kilos to sell. So each time it gets to a location it's generally stepped on or diluted with additional substance to be able to create more yield, more profit. So every time it gets to one high location it will generally be stepped on, diluted with additional, and then separated out to additional resources.
>
> * * *
>
> if I have a local dealer he's going to get his from a source of supply. That source of supply is going to get it from somewhere else. So if the importer -- or whoever receives it from an outside source city -- gets it, they're going to use multiple different methods -- generally scales or some sort of weighing device -- to be able to portion out proper. Because, again, it's a profit business. It's all generally cash. So you want to make sure you're as accurate as possible to be able to get as much for your money as you can. If you're selling a hundred grams you don't want to accidentally give someone a hundred and fifty because that's fifty dollars worth of profit you are not getting anymore. So there's -- digital scales or the old school triple beam balances are the most ones that we see. Which, again, as long as they're calibrated properly, will make sure that that dealer or the supplier gets the most for his money.

Newton's testimony elucidated that, in the drug trade, narcotics may be passed down to and around numerous people before sale. His testimony allowed the jury to assess (and make short shrift of) Garrison's theory that the cocaine recovered from the yard behind his residence belonged to Johnson exclusively, notwithstanding that the PVC pipe, travel mug, and digital scale were connected to Garrison by his DNA.

Contrary to Garrison's argument that Detective Newton's testimony relating to "manufacturing, production, transport[,] and trafficking" was irrelevant, the testimony was probative that, based on all the circumstances, Garrison intended to distribute or dispense the cocaine, and not merely possess it for personal use. Moreover, the probative value of

Detective Newton's testimony outweighed any prejudicial effect it may have had on the jury, if any. The testimony revealed the role of digital scales, portion control, and packaging practices in the drug trade. We find no abuse of discretion by the trial court.

II. Garrison's Failure to Call the Police Following the Shooting of Kerr and Mason.

During the State's cross-examination of Garrison, the following occurred germane to this appellate question:

> [THE STATE]: Mr. Garrison, you admit you fired your shotgun in order to defend yourself that night, correct?
> [GARRISON]: Yes, ma'am.
> [THE STATE]: And people were banging at your door, correct?
> [GARRISON]: Kicking the door in.
> [THE STATE]: Okay. Did you ever call the police that night after that occurred?
> [GARRISON'S TRIAL COUNSEL]: Objection.
> THE COURT: At the bench, please.
> (Counsel approached the bench)
> THE COURT: What's the basis of the objection?
> [GARRISON'S TRIAL COUNSEL]: The basis of it is relevance.
> [THE STATE]: It's completely relevant.
> THE COURT: I'm going to overrule the objection. You can ask the question.
> [THE STATE]: Thank you.

Garrison maintains that the trial judge abused his discretion by permitting this question, over his counsel's objection. He contends the only issues before the jury were whether Garrison possessed the cocaine found on his property and whether he intended to distribute it. Thus, Garrison's failure to call the police after firing his shotgun was irrelevant to the contested issues.

The State advances two arguments in contravention: the State's cross-examination question was 1) relevant to assessing Garrison's credibility; and, 2) it supported an inference that Garrison hid the drugs and paraphernalia after he shot the alleged intruders.

Specifically, Garrison's testimony (taken literally) suggested that everything happened simultaneously and, therefore, he lacked the opportunity to call the authorities before they arrived otherwise. As the State sees it, "if Garrison's answer exposed a gap of time between the shooting and the arrival of the helicopter, then that would have given him an opportunity to hide the cocaine."

Md. Rule 5-611 provides, in pertinent part, that ordinarily "cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness." Cross-examination may be limited and controlled by the trial judge, under appropriate circumstances and within the sound exercise of discretion. *Walker v. State*, 373 Md. 360, 394, 818 A.2d 1078, 1098 (2003). In *Peterson v. State*, 444 Md. 105, 124, 118 A.3d 925, 935 (2015), the Court of Appeals explained that

> controlling the course of examination of a witness, a trial court may make a variety of judgment calls under M[d.] Rule 5–611 as to whether particular questions are repetitive, probative, harassing, confusing, or the like. The trial court may also restrict cross-examination based on its understanding of the legal rules that may limit particular questions or areas of inquiry. Given that the trial court has its finger on the pulse of the trial while an appellate court does not, decisions of the first type should be reviewed for abuse of discretion.

"This discretion is exercised by balancing 'the probative value of an inquiry against the unfair prejudice that might inure to the witness. Otherwise, the inquiry can reduce itself to a discussion of collateral matters which will obscure the issue and lead to the fact finder's confusion.'" *Pantazes v. State*, 376 Md. 661, 681, 831 A.2d 432, 444 (2003) (quoting *State v. Cox*, 298 Md. 173, 178, 468 A.2d 319, 321 (1983)).

Generally, a witness' credibility is always relevant. *Smith v. State*, 273 Md. 152,

157, 328 A.2d 274, 277 (1974); *Hill v. Wilson*, 134 Md. App. 472, 480, 760 A.2d 294, 298 (2000). We reiterated in *Hill* that "'any question which reasonably tends to explain, contradict, or discredit any testimony given by the witness in chief, or which tends to test his accuracy, memory, veracity, character, or credibility[ ]'" is proper. 134 Md. App. at 480, 760 A.2d at 299 (quoting *DeLilly v. State*, 11 Md. App. 676, 681, 276 A.2d 417, 419-20 (1971)).

Garrison testified that after he "discharged his firearm," he "pleaded with [Johnson] to come out of the [] bedroom." Johnson emerged, carrying a number of things, but dropped a digital scale. Garrison explained that he picked up the scale, returned it to Johnson, and Johnson left the residence via its back door. Johnson was gone for "fifteen [to] twenty minutes."[3] Moreover, Garrison conceded that he had the opportunity to call the police, but chose not to because, according to him, there was a presumed police helicopter (or helicopters) hovering above his property already. The State's cross-examination inquiry into whether Garrison chose to call the police (and, if not, why) was probative as an effort to contradict his testimony that he had no time to do so. The pertinent cross-examination was as follows:

> [THE STATE]: And after [the shooting] occurred did you call the police?
> [GARRISON]: Did I call the police?
> [THE STATE]: Correct.
> [GARRISON]: I mean, the helicopters were flying above me and they were already on my property.
> [THE STATE]: That's not the question. Did you call the police?
> [GARRISON]: *I didn't have time to. No, I did not call the police*.

[3] No testimony was presented by Garrison (or any State's witness for that matter) as to how long the period was from the time Garrison fired his shotgun to when he claimed to hear "helicopters" circling his home.

> [THE STATE]: You did not call the police. People are banging on your door, they're kicking your door in, you're firing a shotgun, and you never ever thought to call the police or call for help?
> [GARRISON]: It happened right away. It happened --
> [THE STATE]: And after that occurred you see Mr. Johnson rushing out of his room holding --
> [GARRISON]: A bag.
> [THE STATE]: Holding a bag and dropping a scale and rushing outside. And you still never thought to call the police, did you? You never, ever called the police.
> [GARRISON]: *Everything happened so fast. It was all simultaneous*.
> [THE STATE]: Okay. And the police eventually came to your property, correct?
> [GARRISON]: Yes.
> [THE STATE]: And during the time from the time you fired the shot until the time the police come, again, they were not called [from] your residence. So there was a timeline, correct?
> [GARRISON]: I suppose.

(emphasis added).

Garrison noted, as indicated earlier, that Johnson was absent from the residence for fifteen to twenty minutes after the shotgun blast. When pressed by the State, however, his timeline of events became disjointed. He testified that there was no opportunity to call the police before a helicopter (or helicopters) began circling his residence. The State tried (successfully it would seem) to show a break in the timeline of Garrison's version of events. Such a break contributed to a mosaic permitting the jury to question Garrison's credibility generally, but also that he had the opportunity and motive to conceal the cocaine, drug paraphernalia, and contraband before earth-bound law enforcement arrived on the scene. Assessment of witness credibility is for the jury. We find no abuse of discretion by the trial court in permitting the State's pertinent query to Garrison.

III. Was the Evidence Sufficient to Sustain Garrison's Convictions?

Garrison, in his last claim, maintains that we should vacate his convictions for possession of cocaine and possession with intent to distribute cocaine because they were founded upon legally insufficient evidence. As this goes, the State failed to prove he possessed the cocaine found in the environs behind his residence. The State, in opposition, contends that the recovery of Garrison's DNA from the PVC pipe, travel mug, and digital scale, and that Garrison chose not to call the police after shooting the two alleged home-invaders, provided the jury with sufficient evidence to convict.

As noted earlier, Garrison was charged with possession of cocaine and possession with intent to distribute cocaine under Crim. Law § 5-602.[4] The State must prove, beyond a reasonable doubt, that Garrison had "possession" of the illegal narcotics.[5] Knowledge is also an element of this offense. *Pugh v. State*, 103 Md. App. 624, 652, 654 A.2d 888, 901 (1995). For Garrison to have possessed the narcotics, he must have known the substances existed, and "the general character or illicit nature of it." *Id*. Such knowledge, however, "may be proven by circumstantial evidence and by inferences drawn therefrom." *Id.*

Moreover, the element of intent may be proved generally by circumstantial

[4] Crim. Law § 5-602 states that:

> [e]xcept as otherwise provided in this title, a person may not:
> (1) distribute or dispense a controlled dangerous substance; or
> (2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance.

[5] Crim. Law § 5-101 defines "possess" as exercising "actual or constructive dominion or control over a thing by one or more persons."

evidence. *Fontaine v. State*, 135 Md. App. 471, 479, 762 A.2d 1027 (2000) (citations omitted). The quantity of narcotics in a criminal defendant's possession "permits, although does not demand, an inference that [the criminal defendant] intended to distribute" the narcotics. *Collins v. State*, 89 Md. App. 273, 279, 598 A.2d 8, 10 (1991). "Intent to distribute controlled dangerous substances is 'seldom proved directly, but is more often found by drawing inferences from facts proved which reasonably indicate under all the circumstances the existence of the required intent.'" *Purnell v. State*, 171 Md. App. 582, 612, 911 A.2d 867, 885 (2006) (quoting *Salzman v. State*, 49 Md. App. 25, 55, 430 A.2d 847 (1981)).

To the charge of possession of cocaine, the State submitted as evidence the items recovered from the property, i.e., the PVC pipe, digital scale, travel mug, $6,140.00 in cash, and the cocaine contained in various sized zip-lock baggies. Emilie Dembia, testifying as the State's expert witness in forensic serology and DNA analysis, testified that she obtained Garrison's DNA from the PVC pipe, digital scale, and travel mug. It is reasonable to presume from this evidence that the jury inferred that Garrison possessed the cocaine contained within the receptacles where his DNA was recovered. Contrary to Garrison's contention "that [] Johnson was the individual who was the sole possessor of the drugs," Dembia excluded Johnson's DNA as the source of any significant DNA component derived from the items seized from Garrison's back yard.

Moreover, the State elicited testimony from Garrison showing that he failed to alert the police to the attempted home invasion and his fatal shooting of the two invaders. This could have been viewed by the jury, albeit circumstantially, that Garrison was aware of the

presence of cocaine in or on his property. Garrison's failure to call the police, given whatever may have been necessarily the time lapse between the shooting and when Detective DiPietro arrived at the scene, allowed Garrison (let alone his possible confederate, Johnson) the opportunity to conceal the cocaine behind the residence beneath a pulled-up mound of grass. Indeed, the prosecutor during her closing argument, argued that

> we can tell, ladies and gentlemen, from the testimony of the witness, from the testimony of the expert witness, from the DNA, that he possessed that cocaine and the digital scale right next to that cocaine; the fact that it's found in the wood line there is an attempt to conceal that from the authorities; the fact that he didn't call the police; where it was located shows an attempt to conceal. So we can check off guilty for possession of cocaine.

As for the charge of possession with intent to distribute cocaine, Detective Newton, testifying as the State's expert witness in the illegal drug trade, in addition to his testimony regarding the packaging, distribution, and sale of narcotics, estimated the value of the cocaine seized to be approximately $17,500.00 to $17,900.00. This amount, according to him, is indicative of an intent to distribute the drugs, and not for personal use by the possessor. A large quantity of cocaine in one's possession is circumstantial evidence of intent. *Colin v. State*, 101 Md. App. 395, 407, 646 A.2d 1095, 1101 (1994).

As noted earlier, Garrison testified in his defense.[6] He did not present any countervailing evidence (aside from his broad denial), be it scientifically or lay-generated, to rebut the State's evidence that he possessed the cocaine and intended to distribute it. Viewing the evidence in a light most favorable to the State, there was sufficient evidence

[6] Neither Johnson nor the two women testified.

for the jury to find Garrison guilty, beyond a reasonable doubt, of possession of cocaine and possession with intent to distribute cocaine.

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