Circuit Court for Baltimore City
Case No. 123108003

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 2011

September Term, 2024

DAQUAN HAWKS

v.

STATE OF MARYLAND

Friedman,
Kehoe, Stephen H.,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 14, 2026

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

Convicted by a jury in the Circuit Court for Baltimore City of possession of a firearm by a minor, Daquan Hawks,[1] appellant, presents for our review a single issue: whether the court erred "in allowing the [S]tate to elicit testimony containing improper and overly prejudicial hearsay." For the reasons that follow, we shall affirm the judgment of the circuit court.

At trial, the State presented evidence that on the evening of January 24, 2022, Donte Lee and Darwyl Sturgis were exiting Mr. Lee's car outside their residence in the 2200 block of Ruskin Avenue when Mr. Sturgis heard gunshots. Mr. Sturgis fled, and when he returned, he observed Mr. Lee laying on the sidewalk. Mr. Lee subsequently died of multiple gunshot wounds. Police discovered at the site of the shooting a Smith & Wesson handgun. A forensic processor subsequently swabbed the handgun and its magazine for "biological material." A DNA analyst compared the swabs from the handgun and magazine to an oral swab of Mr. Hawks, and discovered that Mr. Hawks "matches an inferred genotype" located on the swabs of the handgun and magazine. At trial, the analyst testified that a "match between [Mr.] Hawks and the inferred genotype is 34.5 septillion times more probable than a coincidental match to an unrelated individual in the African American population," "2.14 cotillion [sic] times more probable than a coincidental match to an unrelated individual in the Caucasian American population[,] and 4.33 cotillion [sic] times more probable than a coincidental match to an unrelated individual in the Hispanic American population."

[1]Mr. Hawks is alternatively identified in the record as "Da'Quan Hawk." For consistency, we shall identify him as "Mr. Hawks."

The State also called Jennifer Ingbretson, whom the court "deemed an expert in the field of firearms analysis, examination[,] and identification." Ms. Ingbretson testified that she compared cartridge cases discovered at the site of the shooting with "test fired" cases, and concluded that eight of the cases discovered at the site of the shooting "were consistent with having been fired with the [Smith & Wesson] firearm." Ms. Ingbretson further concluded that thirteen of the cases were fired by a second, unknown firearm, and four of the cases were fired by a third, unknown firearm. During cross-examination, the following colloquy occurred:

> [DEFENSE COUNSEL:] So if you were to make – let's just say if there's millions made in a day – we'll even just go with small number, a hundred. If we were to make a hundred firearms in the same manufacturing plant on a Tuesday. You would expect then to have similar characteristics as soon as they come out of that plant; is that fair?
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> [MS. INGBRETSON:] Yes, that's fair.
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> [DEFENSE COUNSEL:] Because they've been made with the exact same machinery and the exact same process; fair?
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> [MS. INGBRETSON:] That's correct.
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> [DEFENSE COUNSEL:] Okay. Now because of that it's easy for you to tell, for example, if something has a left twist or a right twist what manufacturer it came from; fair?
>
> [MS. INGBRETSON:] Generally speaking, yes.
>
> [DEFENSE COUNSEL:] Okay. Because they're not going to change their machinery every time they make a new gun?
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> [MS. INGBRETSON:] Not for every – not for every gun, but we have seen manufacturers that for a particular model, maybe they're an O-5 right and a different model they decide to do an O-6 right for this one for whatever reason.

[DEFENSE COUNSEL:] Okay. But if we're talking about nine millimeter Lugers made by Smith & Wesson, every nine millimeter Luger made by Smith & Wesson you would expect to have similar characteristics; is that fair?

[MS. INGBRETSON:] To – to an extent. Like I said, these are all – like the class characteristics, the rifling for example is something that they determine. So while for ten years we could see Smith & Wesson producing O-5 right – firearms with O-5 right rifling which is a typical class characteristic of fire or Smith & Wesson. But then in 2023 they decide[,] you know what[,] we want to make this model with an O-6 right and then they decide that that's better for them. So, you know we can say to an extent this is what we see, but as far as them always doing the same thing all the time we don't – we can't tell that.

[DEFENSE COUNSEL:] Okay. Fair to say that there are probably millions of nine millimeter Smith & Wessons out there with the same twist; fair?

[MS. INGBRETSON:] Yes, I would agree with that, yes.

During redirect examination, the following colloquy occurred:

[PROSECUTOR:] Ms. Ingbretson, are you aware of any studies in which multiple firearms are manufactured – manufactured sequentially that are test fired?

[MS. INGBRETSON:] Studies like component part studies?

[PROSECUTOR:] Yes.

[MS. INGBRETSON:] Yes.

[PROSECUTOR:] And what were the conclusion[s] about the markings in which firearms were manufactured sequentially?

[DEFENSE COUNSEL]: Objection.

THE COURT: Sustained.

[PROSECUTOR:] Are you aware of any studies in which the same firearm was test fired multiple times sequentially?

> [MS. INGBRETSON:] I am aware of consecutive – consecutively rifled studies where the – or excuse me – consecutively manufactured studies across all different types of pieces of firearms, parts of firearms and also different tools where these items that were manufactured consecutively were then studied to determine if you could differentiate between one manufactured piece from the other and –
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> [DEFENSE COUNSEL]: Objection.
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> THE COURT: Overruled.
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> MS. INGBRETSON: – and they were able to – the examiners who participated in the study and did the research were able to determine that you can differentiate between the different manufactured – consecutively manufactured items. A barrel for example that was – if you take ten barrels consecutively manufactured one right after another and given the bullets fired from these and you're able to determine that these were fired – these bullets were fired with barrel one and two and on down the line.

Mr. Hawks contends that the court "erred in admitting the . . . testimony regarding the conclusions of the studies referred to by Ms. Ingbretson," because the "statements were inadmissible hearsay," and the "error was not harmless." The State counters that although "Mr. Hawks objected to other questions and answers from" Ms. Ingbretson, he "did not object to the admission of the allegedly improper hearsay," and "thus waived the issue for review." Alternatively, the State contends that the court "properly admitted [the] testimony," and "any error was harmless."

We disagree with the State as to whether Mr. Hawks's contention is waived. Rule 4-323(a) states that "[a]n objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent." Here, the prosecutor asked Ms. Ingbretson for the conclusions of studies of "the markings in . . . firearms [that] were manufactured sequentially." Defense counsel objected, and the

court sustained the objection. When the prosecutor asked Ms. Ingbretson whether she was "aware of any studies in which the same firearm was test fired multiple times sequentially," she initially responded that she was, but then began to testify as to whether "items that were manufactured consecutively were . . . studied to determine if you could differentiate between one manufactured piece from the other." Realizing that Ms. Ingbretson was about to present the previously excluded testimony, defense counsel lodged a second objection, which was overruled. We conclude that defense counsel lodged her second objection as soon as the grounds for objection became apparent, and hence, Mr. Hawks's contention is preserved for our review.

Nevertheless, we reject the contention. During cross-examination of Ms. Ingbretson, defense counsel pursued a line of questioning in which she insinuated that "millions of nine millimeter Smith & Wessons" could have fired the cartridge cases discovered at the site of the shooting of Mr. Lee. In so doing, defense counsel opened the door to the prosecutor's questioning of Ms. Ingbretson as to whether bullets fired from "consecutively manufactured" firearms can be determined to have been fired from a specific firearm. *See State v. Robertson*, 463 Md. 342, 352 (2019) (the open door doctrine "authorizes parties to . . . introduce otherwise inadmissible evidence . . . in response to evidence put forth by the opposing side" (internal citations, quotations, and brackets omitted)). Assuming, without deciding, that the court erred in overruling defense counsel's objection to the testimony, the Supreme Court of Maryland has long held that error by a trial court is harmless if "a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced

the verdict[.]" *Dorsey v. State*, 276 Md. 638, 659 (1976). Here, our review of the record reveals that the most critical evidence supporting Mr. Hawks's conviction is not Ms. Ingbretson's testimony, but the presence of Mr. Hawks's DNA on the firearm discovered at the site of the shooting. In light of the strength of this evidence, we conclude beyond a reasonable doubt that any error by the court in admitting the challenged testimony in no way influenced the verdict.

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