UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0559

September Term, 2015

JAMINE LAMAR SCHOOLFIELD

v.

STATE OF MARYLAND

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Krauser, C.J.

Filed: February 18, 2016

Convicted after a bench trial, in the Circuit Court for Cecil County, of possession with the intent to distribute heroin and possession of marijuana, Jamine Lamar Schoolfield, appellant, presents the following question for our review:

> Did the trial court err in relying on a document that had not been offered or admitted into evidence in finding Mr. Schoolfield guilty of the crimes charged?

Because we find that Schoolfield did not preserve this question for appellate review and was, in any event, harmless error, we shall affirm.

Factual Background

The only witness to testify at trial, for either side, was Sergeant Kenneth Russell of the Cecil County Sheriff's Office. He testified that, in September, 2013, while assigned to the Cecil County Drug Task Force, he conducted a surveillance of Jamine Schoolfield and the room he purportedly occupied, Room 121, at a La Quinta Inns and Suites motel in Elkton, Maryland. During that surveillance, Sergeant Russell observed Schoolfield "going out into the parking lot and meeting with different cars and then coming back to his room," as well as "people in the parking lot pull[ing] up and then go[ing] to his room for only short brief periods of time." Based upon these observations, which Sergeant Russell believed to be indicative of drug activity, the police obtained a warrant to search Room 121.

On October 4, 2013, at 8:44 a.m., Schoolfield left Room 121, and, as he walked to a nearby convenience store, Sergeant Russell followed him. When Schoolfield returned to his room, he was arrested by police officers, who then armed with a search warrant,

conducted a search of Room 121. In that room, they found on the bed and nightstand 184 bags of heroin organized in 14 bundles, two bags of marijuana, and $260 in cash, as well as two court notices addressed to Schoolfield.

Moreover, records later provided by the manager of the motel, and later introduced at trial, indicated that Schoolfield had occupied Room 121 "intermittently from September 4th of 2013 to October 3rd of 2013," and had paid for that room in cash. Four of the five rental receipts for that room that the hotel provided appeared to bear Schoolfield's signature while the fifth receipt appeared to bear the signature of a "Keyma Hansby." Although four of the receipts bore Schoolfield's signature, the five rentals of Room 121 were in Hansby's name and contained an address in Newark, Delaware. The same Newark address was found on the two court notices addressed to Schoolfield that were recovered from the motel room.

Circuit Court Findings and Verdict

In concluding that Schoolfield was guilty of the drug offenses charged, the court made the following findings:

> Sergeant Russell . . . was doing surveillance work at the LaQuinta motel located here in Elkton, Cecil County, Maryland, on or about September 4th through October 3rd of 2013, specifically Room 121, where he was conducting surveillance of the defendant, Mr. Schoolfield. [D]uring that period of time he would observe Mr. Schoolfield exit that motel room and go outside into the parking lot where he would meet and get into vehicles of other individuals for a short period[s] of time and then go back into his room, and also on occasion observe people come to the motel, exit their room and go into Mr. Schoolfield's room, no. 121, for again short period

> of time, similar to what would be involved if they were drug transactions. Based on information he obtained, he did apply for and receive a lawful search and seizure warrant, which they executed on October 4th of 2013. The evidence does indicate that upon the execution of the search warrant they did find 184 packets which have been introduced containing what the Court finds to be heroin, having a gross weight, which includes the bags[,] of over 65 grams, and also two bags of marijuana having a small amount of three grams. Also in the room were court papers from the court in State of Delaware addressed to [Schoolfield], having his Delaware address. . . . The . . . motel records indicate that this room was in the name of Mr. Schoolfield, it contains his signature, and **I think the Court is permitted to take notice of [Schoolfield's] signature contain[ed in] the court file on his initial appearance form which he signed here on February 7th of 2014** where again he acknowledged the rights he was giving at the initial appearance **and indicated his Delaware address, which has the same address as the court notices that were found in the room, and in the Court's opinion the signature contained on Mr. Schoolfield's initial appearance form is the same, very similar to the signatures that are on these motel receipts.**
>
> So based on the totality of the evidence, including the number of bags that were found, where they were found in plain view on the bed and on the nightstand, the cash that was seized, the Court is convinced beyond a reasonable doubt that Mr. Schoolfield is guilty of Counts 1 and 3, that being possession of heroin in sufficient quantity and under circumstances to indicate an intent to distribute, and also possession of marijuana[.]

(Emphasis added.) Defense counsel did not object to any of these findings or rulings.

Discussion

Schoolfield contends that in convicting him of the drug charges, the trial court erred in treating his initial appearance form, which was never admitted into evidence, as a handwriting exemplar, and then, after comparing it with his signatures on the motel

receipts, relying on that initial appearance form as evidence of Schoolfield's Delaware address.

There is no dispute, however, that Schoolfield did not object to the trial court's taking notice of his initial appearance form, nor did he object when the court found that it was "the same, very similar to the signatures that are on these motel receipts," nor did he object when the court moved on to sentencing. Thus, the only question before us is whether Schoolfield had the opportunity to object to the trial court's notice of his initial appearance form, which he maintains he did not.

To preserve an error for appellate review, the objection must be made "at the time the ruling or order is made." Md. Rule 4-323(c). But, "[i]f a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection at that time does not constitute a waiver of the objection." *Id.*

To assist in our analysis, we turn to *Reiger v. State*, 170 Md. App. 693 (2006). In *Reiger*, this Court addressed whether Reiger had waived his opportunity for appellate review of the sentencing court's reliance on impermissible factors at sentencing by not objecting to that reliance. Reiger asserted that the sentencing court's consideration of those factors resulted in an enhanced sentence.[1] However, Reiger failed to object when the factors were introduced, when the sentence was announced, and, later, in a motion for reconsideration. Reiger claimed that "a defendant need not lodge a contemporaneous

[1] Reiger asserted that the sentencing court impermissibly considered his parole eligibility when it imposed the maximum sentence of 30 years instead of a shorter term within the range calculated under the sentencing guidelines. *Reiger v. State*, 170 Md. App. 693, 698 (2006).

objection to [a] sentencing court's consideration of improper evidence or impermissible factors in order to preserve his right to appellate review of that sentence." 170 Md. App. at 700.

This Court disagreed and held that Reiger failed to preserve the issue for appellate review. Defense counsel, we pointed out, could have readily objected that the sentencing court was erroneously relying on impermissible factors in determining the sentence when the factors were first introduced, which was well before sentencing. *Id.* Although we noted that the opportunity to object was potentially curtailed by the almost immediate pronouncement of Reiger's sentence by the court, we concluded that the objection had been waived, as Reiger had failed to object when the court then moved on to discuss his placement at a particular facility, had failed to object after the sentencing court had ruled, and had failed to raise the issue in a motion for reconsideration. *Id.* Consequently, we held that the issue was not preserved for appellate review.

As in *Reiger*, Schoolfield failed to object to the court's consideration of his initial appearance form as a handwriting exemplar in arriving at its verdict. For reasons similar to the ones expressed in *Reiger*, Schoolfield had the opportunity to object. Although Schoolfield may have not had the opportunity to object promptly after the trial court mentioned his initial appearance form, as the court almost immediately thereafter announced the verdict, he had plenty of opportunity to do so after the verdict was announced while the court was delving into issues concerning sentencing. Instead, Schoolfield elected to proceed with scheduling the sentencing hearing. In sum, as in

Reiger, Schoolfield could have objected but chose not to do so. Consequently, this issue was not preserved for appellate review.

Even assuming that the issue was preserved for appellant review, any error was harmless. An error is harmless, in criminal cases, when "there is no reasonable possibility that the evidence complained of—whether erroneously admitted or excluded—may have contributed to the rendition of the guilty verdict." *Dorsey v. State*, 276 Md. 638, 659 (1976). Indeed, "Maryland's appellate courts have upheld criminal convictions, notwithstanding error committed by the trial court, when the evidence of guilt was so 'overwhelming' as to render the court's error harmless beyond a reasonable doubt." *Simms v. State*, 194 Md. App. 285, 323 (2010), *affirmed*, 420 Md. 705 (2011) (citations omitted).

Here, the evidence presented by the State was overwhelming, and any perceived error on the part of the trial court in comparing the signature and address found on Schoolfield's initial appearance form to those found on the hotel receipts was inconsequential. That is because police officers observed Schoolfield entering and exiting Room 121 during many weeks of surveillance, including on the day on which they executed the search warrant. During that surveillance, Schoolfield exhibited suspicious behavior, meeting briefly with individuals in the parking lot or receiving individuals briefly in the room. More importantly, officers recovered from his room two court orders addressed to Schoolfield, 184 bags of heroin organized in 14 bundles, and two bags of marijuana. That the officers did not observe Schoolfield pay for Room 121 is of little importance; they

observed him using the room for purposes of storing and selling heroin. There was no evidence presented at trial to suggest otherwise.

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