

Circuit Court for Baltimore City
Case No. 120195020

UNREPORTED*
IN THE APPELLATE COURT OF
OF MARYLAND

No. 2093

September Term, 2023

CARLOS EDUARDO DIAZ

v.

STATE OF MARYLAND

Friedman,
Ripken,
Kehoe, S.,

JJ.

Opinion by Friedman, J.

Filed: November 7, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

Waiver is a standard feature of appellate case law. A party must first object at trial and give the trial court a chance to resolve the issue before asking us to decide that issue on appeal. Here, appellant Carlos Eduardo Diaz asks us to consider whether the circuit court abused its discretion in denying his four motions for mistrial that were based on disputed translations of Diaz’s Spanish statements. Because Diaz told the trial court that he was satisfied in all four instances with the remedies that the court proposed instead of mistrial, we hold that the objections that Diaz raised at trial were waived.

BACKGROUND

The victim, Karla Buri, testified at trial about the day on which she was stabbed.¹ She and her boyfriend, Carlos Reyes, met Diaz and Daniel Castillo at a library. Three other men approached and assaulted Reyes. After those three men took Reyes away from the library, Diaz and Castillo walked Buri toward a wooded area, where they stabbed her approximately 70 times. Diaz and Castillo left Buri in the bushes after she pretended to be dead. In fact, Buri was still alive, but she was unable to move due to her significant injuries. A few hours later, people who were walking nearby discovered Buri and alerted police officers, who took her to a hospital. When she recovered, the officers showed Buri a photo array and library CCTV stills, from which she identified Diaz and Castillo as her assailants. Police then arrested Diaz. At trial, Diaz testified that he was present when Castillo stabbed Buri but claimed that he did not participate in the stabbing. The trial judge, in a bench trial,

¹ Neither the underlying facts of this case, nor Buri’s and Diaz’s disputed testimony about those facts, are relevant to the question presented on appeal. We, therefore, only discuss those facts and the disputed testimony here briefly.

believed Buri’s testimony that Diaz stabbed her, and disbelieved Diaz’s testimony that he did not.

During trial, Diaz, a Spanish speaker, complained four times about the translation of Spanish statements that he had made.² His recorded interview with the investigating detectives, in which Detective Andre Parker asked Diaz questions and Detective Eric Perez translated the conversation, required translation at trial. Body-worn camera footage, which contained Buri’s Spanish statements to an officer, also required translation. At trial, interpreters translated the proceedings into Spanish for Diaz and the two videos into English for the court and for the record. While the State played the recording of his police interview, Diaz began a series of complaints about how his Spanish statements were translated.

First, Diaz complained about the live, in-court translation of Diaz’s police interview. During the translation of the interview, Diaz told his counsel that one of the interpreters was translating incorrectly. The interpreters told the court that they believed that this was because Diaz spoke in “slang.” Later, as translation continued, the court interpreters told counsel for Diaz and the State that a significant part of their in-court translations up to that point were incorrect. Diaz moved for a mistrial, asserting that the

² In the proceedings below, the parties used the words “translation” and “interpretation” interchangeably. These words, although similar, have a key distinction. The word “interpret” means the ascertainment of “the meaning and significance of thoughts expressed in words,” while “translation” means the actual “transformation” of words from one language into another. BLACK’S LAW DICTIONARY 943, 1728 (Bryan A. Garner ed., Deluxe 10th ed. 2014). Because Diaz complains about the allegedly incorrect “transformation” of his Spanish statements into English, we use the word “translation” in this opinion.

translation issues put incorrect information into the record. Diaz then suggested, however, that instead of a mistrial, the interpreters could simply restart the translation. The court similarly suggested that the interpreters could restart the translation and that it would not consider the previous translations. Diaz and the State agreed that this resolved Diaz's complaint.

Second, Diaz complained about Detective Perez's translation of Diaz's responses during the interview. One of the interpreters had told Diaz's counsel that Detective Perez had translated Diaz's statements incorrectly. Diaz moved for a mistrial because, he contended, the inaccurate translation presented incorrect information to the court. The court instead proposed ignoring Detective Perez's translation and restarting the video from the point where Diaz was asked about the stabbing. Diaz and the State agreed that this solution resolved Diaz's problem. Diaz's counsel, recognizing the court's ability to disregard any improperly translated statements, added, "I honestly believe that this Court can parse out, given the discussion, what he has heard so far" and "do its thing."

Third, Diaz complained further about Detective Perez's translations in the recording of Diaz's police interview. The interpreters had told Diaz's counsel that they believed that, because Diaz speaks Salvadoran Spanish and Detective Perez does not, Diaz had not understood the questions that Detective Perez had translated for him. If Diaz misunderstood the questions, his counsel asserted, then he might not have provided accurate information in his answers. Diaz, believing that the entire interview was tainted by incorrect information, wanted to prevent the State from using it further at trial. The trial court found that, because Diaz had not filed a pretrial motion to suppress, suppression of the interview

in the middle of trial would not be fair to the State. Diaz moved instead for a mistrial, claiming that the alleged translation issues made his trial unfair. He also argued that the body-worn camera footage of Buri speaking Spanish would cause further translation issues, which he asserted also required a mistrial. The State offered to withdraw the interview entirely and mute the body-worn camera footage, which Diaz agreed resolved his complaints. The trial court agreed to disregard Diaz’s police interview and to watch the body-worn camera footage with the sound muted.

Fourth, Diaz made a final complaint about overall translation issues throughout his trial. He moved for a mistrial based on these translation issues. Then, Diaz stated that the court had denied his motion for mistrial. The record is unclear about whether the court actually denied Diaz’s motion. It is clear, however, that the court, Diaz, and the State agreed that all of the translation issues were resolved. Later, during Diaz’s cross-examination by the State, the court prevented the State from asking him about information contained in his police interview. The trial concluded without further arguments about translation.

Diaz was convicted of first- and second-degree assault, conspiracy to commit first- and second-degree assault, reckless endangerment, and wearing and carrying a dangerous weapon. The court sentenced him to a total of 50 years in prison, suspending all but 15 years.³ Diaz noted this timely appeal.

³ During the sentencing hearing, the court imposed a 25-year sentence for first-degree assault and a consecutive 25-year sentence for conspiracy to commit first-degree assault, suspending all but 15 years. Diaz’s commitment record, however, omits the 25-year consecutive sentence for conspiracy, instead detailing a total 25-year sentence, suspending all but 15 years. Neither side notes this discrepancy, nor raises a

DISCUSSION

Diaz’s sole contention is that the trial court erred in denying his four motions for mistrial, all based on Perez’s allegedly inaccurate translation of Diaz’s statements in his police interview. Diaz says that, because of the inaccurate translation, “unreliable and inaccurate evidence” was presented to the court, “poisoning the trial and repeating highly prejudicial facts regarding [his] drug use; his changing account of the events that transpired; his association with the gang members that were perpetrating the assault at the library; and the detectives’ repeated accusations and expression of disbelief in the veracity of his statements.” The presentation of the video following the denial of his motions for mistrial, he concludes, “undoubtedly affected the trial judge’s impartiality” and deprived Diaz of a fair and impartial verdict. We conclude that Diaz waived his objections.⁴

sentencing issue in their brief, but we note it should either party decide to take further action in the circuit court. “When there is a conflict between the [sentencing hearing] transcript and the commitment record,” of course, “unless it is shown that the transcript is in error, the transcript prevails.” *Douglas v. State*, 130 Md. App. 666, 673 (2000).

⁴ Even if Diaz preserved his sole issue for our review, we would not hold that the trial court abused its considerable discretion in declining to undertake the “extreme remedy,” *Nash v. State*, 439 Md. 53, 69 (2014), of declaring a mistrial. Diaz argues that the allegedly improper translations that were heard by the court prejudiced him and prevented the court from making impartial findings. The court, however, initially agreed that the challenged translations should be translated again, and later, allowed the State to withdraw the interview. Every time the court required the interpreters to restart the translation, it told the parties that it would not consider the translations that Diaz had challenged. And, when the State cross-examined Diaz, the court prevented the State from asking any questions about information in the video. All of the court’s remedies ensured that information in the translated statements at issue was not used against him. The court’s remedies have particular significance here, in a bench trial, because trial judges are presumed to know the law and to apply it properly. *State v. Chaney*, 375 Md. 168, 181 (2003). The court demonstrated this at the conclusion of trial, when it explained at length

Each time Diaz moved for a mistrial, he either suggested an alternative or accepted the State’s offered alternative. In each instance, Diaz then continued with trial with no further objection. Every alternative avoided a mistrial and permitted the trial to continue, effectively suppressing Diaz’s recorded police interview and muting the body-worn camera recording of the police officer speaking with Buri. When the trial court accepted Diaz’s proposed alternatives to mistrial, “[b]ecause he received the remedy for which he asked, [Diaz] has no grounds for appeal.” *Klauenberg v. State*, 355 Md. 528, 545 (1999); *Ball v. State*, 57 Md. App. 338, 358-59 (1984), *aff’d in part, rev’d in part on other grounds sub nom.*, *Wright v. State*, 307 Md. 552 (1986) (in getting the remedy he requested and asking for no other relief, “[i]n a nutshell, the appellant Ball got everything he asked for. This is not error.”). And, by continuing with trial after the court imposed each agreed-upon remedy, Diaz’s counsel acquiesced in the trial court’s rulings. Again, therefore, there is no basis on which to appeal. *Grandison v. State*, 305 Md. 685, 765 (1986) (“The right of appeal may be waived where there is acquiescence in the decision from which the appeal is taken or by otherwise taking a position inconsistent with the right to appeal. By dropping the subject and never again raising it, Grandison waived his right to appellate review of this issue.”) (internal citations omitted).⁵

that it found Buri to be more credible than Diaz. This determination was based on Diaz’s in-court testimony, not his withdrawn statement. There would, therefore, be no basis for us to decide that the court prejudiced him or failed to be impartial in any way.

⁵ Diaz’s brief suggests that, even if his objections were waived, a mistrial was nevertheless required because of the “tremendous prejudice” that he claims to have suffered. In essence, because Diaz’s objections were not preserved, MD. R. 8-131 (“[A]n

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED;
COSTS ASSESSED TO APPELLANT.**

appellate court will not decide any [non-jurisdictional] issue unless it plainly appears by the record to have been raised in or decided by the trial court.”), Diaz seeks plain error review of the court’s denials of his motions for mistrial. Litigants, to obtain plain error review, must not have affirmatively waived their objections. *Yates v. State*, 202 Md. App. 700, 722 (2011) (comparing forfeiture, which is failing to timely assert a right, with affirmative waiver, which is intentionally abandoning a known right). When Diaz accepted solutions that he agreed had resolved his complaints, he affirmatively waived his objections. Accordingly, we do not exercise our discretion to grant plain error review here.