

Circuit Court for Montgomery County
Case No: 133324C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2442

September Term, 2018

JUANITA WRIGHT

v.

STATE OF MARYLAND

Arthur,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 5, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 2016, Juanita Wright, appellant, was an in-home caregiver for Edith Kearns, then age 92. Ms. Wright was charged in the Circuit Court for Montgomery County with financial exploitation of a vulnerable adult, theft, counterfeiting a document, and issuing a counterfeit document stemming from her use of two credit cards and twenty-four personal checks belonging to Ms. Kearns. At trial, Ms. Wright did not dispute that she used the credit cards and checks for her own benefit. She argued, rather, that Ms. Kearns authorized her to use these instruments, making authorization a central issue of the case. During deliberations, the jury submitted a question to the trial court, asking: “[i]f a person signs another person’s name to a legal document, is this act breaking the Maryland state law?” In response, the court advised the jurors that they should “consult the jury instructions on the charged offenses and determine if [Ms. Wright] is guilty or not guilty of each charged offense.” The jury subsequently found Ms. Wright guilty of theft, counterfeiting a document, and issuing a counterfeit document.

On appeal, Ms. Wright contends that the trial court abused its discretion by failing to provide the jury with a supplemental instruction clarifying that when a person signs another person’s name to a legal document *with his or her authorization*, it does not constitute counterfeiting or the issuance of a counterfeit document. She argues that because the jury’s question raised a central issue of the case, *i.e.* authorization, the court was required to respond in a way that clarified their confusion, not by directing the jury back to the original instructions which were silent on the issue of authorization. We disagree and shall affirm.

“We review a trial court’s decision to give a particular jury instruction under an abuse of discretion standard.” *Appraicio v. State*, 431 Md. 42, 51 (2013). In determining whether the trial court abused its discretion in responding to the jury’s question, the threshold issue is “whether the jury’s question[] made explicit its difficulty with an issue central to the case such that the trial court was required to respond to the question[] in a manner that directly addressed the difficulty.” *State v. Baby*, 404 Md. 220, 263 (2008).

Ms. Wright urges this Court to view the jury’s question as explicitly calling into question the role authorization played in the charged offenses. However, the record reveals that the question was not explicit in its meaning, sparking debate among the court and counsel about the precise issue being raised. The court noted that while the question “sort of” raised the issue of authorization, it did not believe that the jury was asking about authorization. Instead, the court considered, and then adopted, a more literal reading of the question, stated as follows: “[w]hat they’re saying is, merely signing a person’s name to a legal document, is this act breaking Maryland law?” The court noted that the jury did not identify a specific law in its question, suggesting that they were concerned with whether Ms. Wright’s actions constituted some violation of law other than the charged offenses. If so, the court concluded, the jury’s attention should be steered back to the charged offenses.

We have previously held that where there are two or more interpretations of an ambiguous jury question, and the trial court selects a reasonable interpretation of that question and crafts a reasonable response thereto, that court has not abused its discretion. *See Mulley v. State*, 228 Md. App. 364 (2016). Ms. Wright contends that the court’s interpretation of the jury question was not reasonable, and that surely, the jury must be

referring to only the charged offenses. However, the jury question did not explicitly do so. It did not explicitly use the terms “counterfeiting,” “forging,” or “false writing.” Further, the question did not explicitly use the terms “authorization” or “permission.” Given these omissions, Ms. Wright’s interpretation of the jury’s question is at best implied, but not plainly expressed. Conversely, the court’s interpretation of the jury’s question, that the jury had turned its eye to all “Maryland state law,” is perhaps the most literal reading that could be adopted, and was, therefore, reasonable. In this light, the court’s response, steering the jury’s attention back to the jury instructions containing the charged offenses, was appropriate. Therefore, we perceive no abuse of discretion by the trial court. Moreover, the jury did not submit an additional question following the court’s response, and we surmise, therefore, that the jury’s confusion was satisfactorily resolved.

Even if the only reasonable interpretation of the jury’s question was what role authorization played in the charged offenses, the court’s response was nevertheless reasonable. Where the answer to the jury’s question is contained in the original jury instructions, which are then reiterated to the jury in the court’s response, we have previously held that there is no abuse of discretion. *See id.* at 381 (“a correct answer to the jury’s question . . . was contained within the court’s supplemental instruction”); *Lee v. State*, 186 Md. App. 631, 665-66 (2009), *rev’d on other grounds*, 418 Md. 136 (2011) (“the court’s response to the jury, that the answer to the jury’s question was contained in the jury instructions already provided, did address the jury’s question”). Here, it was reasonable for the trial court to find that an answer to the question of authorization was communicated through the terms used in the original instructions. As the court noted, the term “false

writing” in the counterfeiting instruction, “denotes that it’s done without authorization.” The term “forgery” was also used therein.

“Counterfeit,” as defined in § 1-101 of the Criminal Law Article, “means to forge, counterfeit, materially alter, or falsely make,” consistent with our case law that these terms are synonymous. *Reese v. State*, 37 Md. App. 450, 457 (1977). These terms describe “a spurious or fictitious making relating to the genuineness of execution of an instrument,” “the fabrication of a false image or representation,” and “the making of a copy without authority or right.” *Smith v. State*, 7 Md. App. 457, 461 (1969). Accordingly, they indeed denote the lack of authority. Given their use in the original instructions, it was reasonable for the court to find that the instructions already provided sufficient guidance on the role authorization played in the charged offenses.

Ms. Wright contends further that, in the face of multiple interpretations, the trial court was required to ask the jury for clarification of its question. We find no support for this proposition in our case law. On the contrary, without holding that the court was required to get clarification from the jury about a question posed, this court has affirmed the trial court’s use of discretion where there were two possible interpretations of a jury question. *See Mulley*, supra.

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