UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2448

September Term, 2014

JERROD LAMONT BENSON

v.

STATE OF MARYLAND

Woodward,
Kehoe,
Arthur,

JJ.

Opinion by Arthur, J.

Filed: November 18, 2015

Jerrod Lamont Benson, appellant, was convicted by a jury in the Circuit Court for Charles County of attempted first- and second-degree murder, conspiracy to commit murder, first-degree assault, conspiracy to commit first-degree assault, theft of property having a value of less than $1,000, and unauthorized use of a motor vehicle. He received an aggregate sentence of incarceration for a term of eighty years, to run consecutively to a sentence imposed in another case that is not the subject of this appeal.[1] This timely appeal followed.

QUESTIONS PRESENTED

Benson presents the following four questions for our consideration:

> I. Did the pre-trial hearing court err by ruling that "bad acts" evidence was admissible?
>
> II. Did the trial court err by admitting the hearsay statement of Sharleah Queen during the testimony of Jasmine Lownes?
>
> III. Is the evidence legally insufficient to sustain Benson's convictions for attempted murder in the first and second degrees and conspiracy to commit assault in the first degree?
>
> IV. Did the trial court err by departing from agreed-upon jury instructions while defining accomplice liability?

For the reasons set forth below, we shall affirm.

[1] For Count 1, attempted first-degree murder, Benson was sentenced to eighty years to be served consecutively to a sentence imposed in Case No. K12-820, which is not the subject of this appeal. For Count 3, conspiracy to commit murder, he was sentenced to eighty years, to run concurrently with the sentence imposed for Count 1 and consecutive to the sentence imposed in Case No. K12-820. For Count 8, theft of property having a value of less than $1,000, Benson was sentenced to eighteen months, to run concurrently with the sentence imposed in Case No. K12-820. Finally, for Count 9, unauthorized use of a motor vehicle, Benson was sentenced to four years, to run concurrently with the sentences imposed for Count 8 and Case No. K12-820.

FACTUAL BACKGROUND

For twenty years, John Bergling worked for the Washington Post delivering newspapers. In the early morning hours of August 5, 2012, he drove his minivan full of newspapers to Ryon Court in Leonardtown. At one point, Bergling got out of his van to deliver some of the newspapers. When he finished delivering the newspapers and was heading back to his van, he heard someone run up behind him. When he turned to look, he saw a young man in his late teens or early twenties, whom he identified at trial as Derrick Thompson.

Thompson asked Bergling what he was doing, and Bergling responded that he was "serving newspapers." As Bergling continued to walk toward his van, Thompson punched him in the back of his head, causing him to fall forward on his knees. Bergling pivoted toward Thompson, but was kicked in the face and under his chin.

Before Bergling could stand up, he heard "running coming up from [his] left." He was then attacked by a group of seven men who "tackled" him to the ground. Bergling identified one of the men who tackled him as Gregory Boseman.

The men smashed Bergling's face into the pavement and went through his pockets. One of the men demanded that Bergling give him his wallet, but when Bergling said he did not have a wallet, the man punched him in the face. The man demanded Bergling's cell phone, and Bergling responded that it was in his van. Thereafter, Bergling saw someone going through his van.

The men continued to beat Bergling. At one point, Bergling freed his left hand from beneath his body and flung it up to protect the back of his head. He heard one of

the men say, "Oh, lookey, what do we have here?" After threatening to cut off Bergling's finger, the men took his wedding band. Then, after beating him for about five minutes, the men stopped, stripped off Bergling's clothes, and ran away. Someone drove off in Bergling's van.

Bergling tried to make his way to a police station on Leonardtown Road, but before he got there, a group of men ran up behind him and started punching him again. Bergling stayed on his feet and the men eventually ran away.

Again, Bergling tried to reach the police station, but a group of men attacked him for a third time. They beat him until he "went blind." The men ran off, and Bergling was able to crawl toward the police station.

When Bergling reached a fence near the main entrance of the Ryon Woods neighborhood, he "got down on [his] belly" and stayed there for about fifteen minutes, "until [his] vision came back." While lying on the ground in the weeds near the fence, Bergling heard voices looking for him and then heard someone yell, "Let's get out of here." Bergling heard them run away.

Shortly thereafter, Bergling made his way to the police station, where Charles County Sheriff's Officer and Emergency Medical Technician Richard Bagley covered him in an emergency blanket and attended to his injuries. According to Bagley, Bergling had "severe facial and head trauma" and "was bleeding profusely from his face."

Bergling was taken to the hospital by ambulance. He suffered from two broken ribs, a broken nose, damage to his hearing, numerous contusions and abrasions, post-traumatic stress disorder, and a cornea laceration that required surgery. He also required

plastic surgery near his eyes. The police later recovered Bergling's van parked on the side of a road about two hundred yards from the entrance to the Ryon Woods neighborhood. Bergling's reading glasses and cell phone and a utility knife were missing from it.

Officer Stephen Duley and Detective Brion Buchanan of the Charles County Sheriff's Office assisted in the investigation of the robbery and beating of Bergling. Officer Duley located some newspapers, a t-shirt, and a pair of socks in an area near Ryon Court. Detective Buchanan recovered a box cutter, a pair of gray sweatpants, white underwear, and a pair of brown boots.

Just before 3:00 a.m., as Officer Duley was taking photographs of the area where the crime occurred, he observed a group of three men walking down the street. Officer Duley asked if he could photograph them, and the men agreed. Officer Duley identified one of those men as Andrew Washam and another as Benson. Benson was wearing a white t-shirt with an image of a wrestling belt on the front.

Washam testified that sometime between 11 p.m. and midnight on August 5, 2012, Gregory Boseman called and asked if he wanted to go to a party in the Ryon Woods neighborhood. Washam agreed to go to the party. He drove to Boseman's house and picked up Boseman, Benson, Derrick Thompson, and Kenneth Brawner. They went to a playground in the Ryon Woods neighborhood and began socializing, drinking, and smoking marijuana with a group of other people. Washam said that he drank two or three shots of vodka and smoked marijuana.

Sometime later, Washam, Benson, Thompson, and two young women, one of whom was named Jasmine, drove to a nearby 7-11 store and purchased some snacks, a pack of cigarettes, and a drink. The group then returned to the playground and continued to smoke and drink for about a half hour, until the police "showed up" and said they "had to leave the playground." As Washam was walking away from the playground, he said that he noticed a commotion at the end of the street.

Washam approached the commotion and was "shocked to see it was a guy on the ground." According to Washam, Benson, Boseman, Thompson, and a couple of other guys were there, and "[s]omebody was talking about robbin' [the man on the ground and] taking his belongings." About five feet away from the man on the ground, Washam saw a minivan with the keys in the ignition and the engine running. Referring to the man on the ground, Benson said, "[r]un him the fuck over." Washam testified that he did not want the man to be run over, so he got into the minivan and drove it out to the main road adjacent to the Ryon Woods neighborhood. Washam then walked back to his own car, which was parked in Ryon Woods.

As he was getting in his car, Benson, Boseman, Thompson, and Brawner came running toward him and got into the car. They drove out of the Ryon Woods neighborhood and went to Washam's home. As they were driving, Benson, Boseman, and Thompson were talking "about how tough they were," how they had "smashed the guy's cell phone," and about "what they had gotten from the guy." They discussed how much the man's ring was worth and bragged about what they had done.

Washam, Benson, Boseman, Thompson, and Brawner walked from Washam's home back to the 7-11 near Ryon Woods. Thereafter, they all walked back to Ryon Woods, where they were stopped by police officers who took their photographs. Washam testified that he did not tell the police officers that he knew anything about the assault that occurred earlier because he was "too intoxicated to really make any good decisions at that time." After encountering the police, Washam went home.

On the night of the assault, Jasmine Lownes was at a restaurant with twenty to twenty-five other people celebrating the birthday of her friend Sharleah Queen. After the dinner, everyone returned to the Ryon Woods neighborhood, where Queen lived, and went to a park across the street from Queen's house to hang out. At some point, three "guys" showed up at the park, one of whom was wearing a shirt like the one Benson was later photographed as wearing. Lownes and Queen went with them to a nearby 7-11 store, where they purchased snacks and took photographs. They then returned to the park and hung out until police came and dispersed the group.

After leaving the park, Lownes went to Queen's house. While in Queen's upstairs bedroom, Lownes heard Queen enter the front door of the house yelling, "[t]hose three dudes just beat up some old mailman." Lownes went downstairs and saw that Queen was "really shocked, like she had just seen something really bad," and she was "panicking a little bit."

Queen's sister, Raynette King, had also been at the park in the Ryon Woods neighborhood. At some point, King left the park with her friend, Mike, and went to a McDonald's restaurant. As King and Mike were returning to the park, they saw a man in

his underwear crawling on the ground while two men kicked him. King saw two other men running away from the scene. One of the men who was kicking the man on the ground met Benson's description – he wore a white shirt and had dreadlocks. King testified that she just "[k]ept walking" and did not call for help.

Charles County Sheriff's Detective Jack Austin spoke to Washam on August 16, 2012. Washam told him that Benson, Boseman, and another person known as "Little Head" were involved in the beating of Bergling.

We shall provide additional facts in our discussion of the issues presented.

DISCUSSION

I.

Before trial, Benson moved in limine to preclude the admission of certain evidence of other crimes or wrongs, specifically, that he and Boseman had participated in a fight with Washam on August 22, 2012, while they were all in jail awaiting trial.

The prosecutor proffered that on August 22, 2012, while Boseman and Benson were in Boseman's cell, Boseman read aloud his charging document, which contained an assertion that Washam had spoken to Detective Austin. Afterwards, Boseman and Benson beat up Washam. As Benson struck Washam, Benson announced, "[t]his is for my little brother." The event was captured on a video-recording.

Defense counsel argued that the video-recording of the fight was not relevant to the issue of whether Benson was involved in the assault on Bergling, did not prove consciousness of guilt, and would be unduly prejudicial because it showed Benson engaged in a fight inside a jail while wearing an orange jumpsuit. In addition, counsel

argued that the jury could misuse the evidence to conclude that Benson had a violent nature or that he was prone to fight.

Initially, the court indicated that it would preclude the use of the evidence, but as the hearing continued, the court determined that evidence of the fight could be used to show consciousness of guilt. The State proposed sanitizing the evidence so that the jury would not see the video-recording. Eventually, the parties agreed to the following stipulation, which was read to the jury:

> The State and Defense have agreed that on August 22nd, 2012, Gregory Boseman initiated a fight with Andrew Washam. Jerrod Benson joined in the fight shouting, quote, "This is for my little brother," as he punched Andrew Washam. Eventually, Mr. Benson placed Mr. Washam in a headlock.

On appeal, Benson contends that "[t]he pre-trial ruling leading to the admission of this evidence was erroneous." This issue, however, is not properly before us. By agreeing to the stipulation, Benson waived any right to appeal the admission of that evidence.

"It is well established that a party opposing the admission of evidence 'shall' object 'at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent.'" *State v. Jones*, 138 Md. App. 178, 218 (2001) (quoting Md. Rule 4-323(a)), *aff'd*, 379 Md. 704 (2004). "'Otherwise, the objection is waived.'" *Jones*, 138 Md. at 218 (quoting Md. Rule 4-323(a)); *see also* Md. Rule 5-103(a) (error may not be predicated upon ruling that admits evidence unless party is prejudiced by ruling, and timely objection appears in record).

The requirement of a contemporaneous objection at trial applies even when the party contesting the evidence has made his or her objection known in a motion in limine. "Whether the motion *in limine* is made before trial or during trial, a court's ruling which has the effect of admitting contested evidence does not relieve the party, as to whom the ruling is adverse, of the obligation of objecting when the evidence is actually offered." *Reed v. State*, 353 Md. 628, 637 (1999). "Failure to object results in the non-preservation of the issue for appellate review." *Id.* Here, by entering into the stipulation, Benson affirmatively waived his right to appeal the admission of that evidence.

Even if Benson had properly preserved this issue for our consideration, he would fare no better. The evidence was admissible under Md. Rule 5-404(b), which provides that evidence of other crimes or wrongs is not admissible to prove the character of a person in order to show action in conformity therewith, but may be admissible for "other purposes." Consciousness of guilt is an "other purpose" for which other crimes evidence may be admitted against a defendant. *Conyers v. State*, 345 Md. 525, 554 (1997) (citing *State v. Edison*, 318 Md. 541, 548 (1990)).

In determining whether evidence is admissible under Md. Rule 5-404(b), a court must conduct a three-step analysis. *State v. Faulkner*, 314 Md. 630, 634-35 (1989). Specifically, courts must determine (1) whether the evidence of other wrongs has special relevance to an issue other than character; (2) whether there is clear and convincing evidence the other wrong occurred; and (3) whether the danger of undue prejudice outweighs its probative value. *Id.*

In the instant case, the assault on Washam had special relevance, because it suggested consciousness of guilt: Benson and Boseman were charged as co-conspirators, and the jury could infer that they assaulted Washam because he was a snitch who would give unfavorable testimony against them at trial. Furthermore, there is no dispute that the fight in the jail actually occurred, as it was captured on a video-recording. Nor did the court did abuse its discretion in finding that the danger of *undue* prejudice did not outweigh the probative value of the evidence, because the stipulation did not disclose that the assault occurred while Benson was incarcerated and awaiting trial. Finally, the court instructed the jury that the stipulation could be used only as to consciousness of guilt:

> You heard evidence concerning the August 22nd encounter between the Defendant, and Mr. Boseman, and Mr. Washam, where it was alleged that, or it was the subject of stipulation that Mr. Boseman and Mr. Benson, my word, not the stipulation's, beat up Mr. Washam. That is not a charge in this case. Benson is not charged here today with doing anything to Washam. That evidence was presented, and you are expected to consider it only on the question of motivation, whether the behavior imputed to the Defendant, Benson shows evidence of recognition of criminal responsibility on his part. And it is not otherwise relevant.

Given the limited scope of the stipulation and the court's instruction to the jury, the trial court did not abuse its discretion in admitting the stipulation. *Bazzle v. State*, 426 Md. 541, 549 (2012) (quoting *Stabb v. State*, 423 Md. 454, 465 (2011)) (an abuse of discretion occurs when decision is "'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons'").

II.

Benson contends that the trial court erred in admitting Jasmine Lownes's hearsay account of a statement by Sharleah Queen. We disagree because the testimony was admissible as an excited utterance and because any error in admitting it would, in any event, have been harmless.

After the police dispersed the crowd from the playground area, Jasmine Lownes and another friend went to Sharleah Queen's home. About ten minutes after arriving at Queen's home, Lownes heard Queen enter the house while "yelling." The defense objected before Lownes could testify about what Queen had said.

At a bench conference, defense counsel argued that Lownes should not be permitted to repeat what Queen said. The prosecutor countered that he was attempting to lay a foundation to show that Queen's statement qualified as an excited utterance. The trial court allowed the prosecutor to lay that foundation by questioning Lownes about Queen's demeanor and the tone of her voice.

Lownes testified that Queen appeared "really shocked" and that her voice sounded "[l]ike panicking a little bit," and she was "yelling," as if "she had seen something really bad." Thereafter, the court overruled defense counsel's objection on the ground that Queen's statement constituted an excited utterance. Lownes went on to testify that she heard Queen say, "Those three dudes just beat up some old mailman."

On appeal, Benson contends that it was error to allow Lownes to testify about what she heard Queen say. He maintains that Queen was not describing something that happened to her, but was merely reporting something she had observed before she

entered the house, after she had an opportunity to reflect on what she had seen. We disagree that the statement was inadmissible.

Although hearsay is generally inadmissible, Md. Rule 5-803(b)(2) recognizes an exception for an excited utterance, which is defined as a "statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition." "'[T]he proponent of a statement purporting to fall within the excited utterance exception must establish the foundation for admissibility, namely personal knowledge and spontaneity.'" *Cooper v. State*, 434 Md. 209, 242 (2013) (quoting *Parker v. State*, 365 Md. 299, 313 (2001)). Contrary to Benson's assertion, the excited utterance exception may apply even if a declarant merely witnessed a startling event that affected someone else. *See, e.g., Moore v. State*, 84 Md. App. 165, 179-80 (1990) (affirming use of excited utterance exception to admit statement by witness to shooting about the shooting).

In the instant case, Lownes testified that Queen was "panicked," "really shocked," and "looked like she had seen something really bad." In view of the emotional distress exhibited by Queen, the trial court did not abuse its discretion in admitting Queen's statement to Lownes as an excited utterance.

Even if the court had abused its discretion in admitting the evidence, Lownes's testimony about Queen's statement was merely cumulative. Bergling testified that several men savagely beat him as he delivered newspapers; Washam testified that Benson, Boseman, and Thompson were standing around Bergling discussing whether to take his belongings; and Washam drove four men, Benson, Boseman, Thompson, and

Brawner, away from the scene of the crime. In these circumstances, any error in admitting Queen's statement about three men beating up an old mailman would have been harmless beyond a reasonable doubt. *Dorsey v. State*, 276 Md. 639, 659 (1976).

III.

Benson contends that the evidence is insufficient to sustain his convictions for conspiracy to commit assault in the first degree and attempted first- and second-degree murder. We reject his contentions.

Under Maryland Rule 4-324(a), a defendant who moves for judgment of acquittal must "'state with particularity all reasons why the motion should be granted[,]' and is not entitled to appellate review of reasons stated for the first time on appeal." *Starr v. State*, 405 Md. 293, 302 (2008). "The language of the rule is mandatory, and review of a claim of insufficiency is available only for the reasons given by [the defendant] in his motion for judgment of acquittal." *Whitting v. State*, 160 Md. App. 285, 308 (2004) (citations omitted). Choosing to "submit" without articulating reasons to support acquittal is a waiver of any appellate challenge to the sufficiency of the evidence. *Garrison v. State*, 88 Md. App. 475, 478 (1991).

After the State rested, defense counsel argued that Benson was entitled to judgments of acquittal only on the charges of attempted first-degree murder and conspiracy to commit first-degree murder. Benson's counsel did not refer to the charge of conspiracy to commit first-degree assault.[2] Consequently, Benson has waived any

[2] After the court had denied the motion for judgment of acquittal, the court and counsel discussed the jury instructions and Benson's right to testify on (continued…)

argument about the sufficiency of the evidence to support the conviction for conspiracy to commit first-degree assault.

Even if Benson had preserved that issue, the evidence was sufficient to sustain the conviction for conspiracy to commit first-degree assault. A person commits first-degree assault if he or she intentionally causes or attempts to cause serious physical injury to another. *See* Md. Code (2002, 2012 Repl. Vol.), § 3-202(a)(1) of the Criminal Law Article ("CL"). A conspiracy is "'the combination of two or more persons to accomplish some unlawful purpose, or to accomplish a lawful purpose by unlawful means.'" *Carroll v. State*, 428 Md. 679, 696 (2012) (quoting *Khalifa v. State*, 382 Md. 400, 436 (2004) (citation omitted)) The agreement underlying the conspiracy "'need not be formal or spoken, provided there is a meeting of the minds reflecting a unity of purpose and design.'" *Stevenson v. State*, 423 Md. 42, 52 n.2 (2011) (quoting *Mitchell v. State*, 363 Md. 130, 145 (2001) (citation omitted)). A conspiracy may be shown by "circumstantial evidence from which an inference of common design may be drawn." *McMillan v. State*, 325 Md. 272, 292 (1992) (citation omitted).

Bergling testified that multiple people attacked him, unquestionably causing very serious physical injuries. Washam identified Benson as one of the people standing near Bergling as he lay naked on the ground after the first assault. According to Washam, Benson, Boseman, and Thompson stood over Bergling and discussed robbing him.

his own behalf. Thereafter, the court addressed defense counsel, stating, "And you had renewed the earlier motion, and we have dealt with it, am I right?" Defense counsel responded, "Yes, Your Honor."

Benson suggested that they should "[r]un him the fuck over." This evidence would suffice to sustain Benson's conviction for conspiracy to commit first-degree assault had Benson preserved his objection.

In determining whether the State presented sufficient evidence to sustain Benson's convictions for attempted first- and second-degree murder, we ask "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." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original).

First-degree murder is a deliberate, premeditated, and willful killing committed by lying in wait, poison, or in the preparation of or an attempt to perpetrate one of the crimes set forth in CL § 2-201(a)(4). "A murder that is not in the first degree under § 2-201 . . . is in the second degree." CL § 2-204(a). To be guilty of the crime of attempt, one must possess "a specific intent to commit a particular offense" and carry out "some overt act in furtherance of the intent that goes beyond mere preparation." *State v. Earp*, 319 Md. 156, 162 (1990) (citations omitted). "A specific intent to kill is an indispensable element of the crime of attempted murder, in either degree." *State v. Selby*, 319 Md. 175, 178 (1990).

Benson asserts that the State failed to prove that he acted with a specific intent to kill. In support of that assertion, Benson points to a contradiction between Washam's testimony and Detective Austin's testimony. Washam testified that Benson said, "[r]un him the fuck over." Detective Austin, on the other hand, testified that Washam told him Thompson was the person who yelled "[r]un the man over," while Benson said, "I got

your back." According to Benson, "these statements are not a crystal clear expression of intent to kill[,]" and "more evidence should be required to establish the specific intent to kill."

Benson's contention has no merit. The contradictions in the testimony presented an issue of credibility that was for the jury to resolve. As Benson concedes, Washam's testimony that Benson said, "[r]un him the fuck over" was sufficient to sustain the jury's conclusion that Benson intended to kill Bergling. Hence, it was sufficient to sustain Benson's convictions for attempted first- and second-degree murder.

IV.

Benson's final contention is that the trial court erred in departing from the pattern jury instructions with respect to accomplice liability.

The parties and the trial court agreed that the court would read Maryland Criminal Pattern Jury Instruction 6:00, addressing accomplice liability. Before giving that instruction, the trial judge addressed the jury, stating:

> The last page you have there is labeled, "Accomplice Liability." You have a situation here where there is an allegation that several people were involved in the attack on Mr. Bergling, with perhaps varying roles. Before reading through this with you, let me suggest a familiar, simple example, an old grade-B movie involving a bank robbery. There is the robber in the bank sticking the gun in the teller's chin, demanding the bag of money.

Defense counsel objected to the judge's example, but the court overruled the objection stating that defense counsel would have an opportunity to object at "the appropriate juncture." The judge continued to address the jury, stating:

> The accomplice is sitting out in the parking lot, or at the door, or in the car with the motor running, prepared to flee when the guy with the bag of money comes out the door.
>
> As far as the law is concerned, though it is the man in the bank with the gun at the teller's chin who is doing the act that amounts to robbery, okay, he is doing all the things that in a textbook case would involve robbery, and the guy out in the car, the get-away man, if you will, the get-away driver, if you will, is not doing any of those acts that amount to robbery, because he is there rendering aid, assistance, and rescue to the primary actor, he is an accomplice.
>
> There are some lawyerly terms that describe the degree of accomplice liability and whatnot, but that's not really relevant in the discussion with you folks. The point is, in terms of legal responsibility, the law doesn't make a distinction between the guy in the bank with the gun, and the guy out in the get-away car. They are equally culpable in that scenario. So that is the perspective in which I suggest that you look at the language there under the heading, "Accomplice Liability."

The trial judge went on to give a slightly modified version of MPJI-Cr 6:00.

At the conclusion of the instructions, defense counsel again objected to the judge's example. The court overruled the objection, stating that it "was not aware as yet of any abjuration against trying to give examples."

Benson maintains that the trial court should not have departed from the pattern jury instruction and that using the example of a get-away driver at the scene of a bank robbery carried the potential for confusing the jury because of the evidence that Washam drove a car to Ryon Woods. On the facts of this case, we are unpersuaded.

In reviewing a trial court's decision to give or not to give a proposed jury instruction, "we consider whether the instruction was generated by the evidence, whether it was a correct statement of the law, and whether it otherwise was fairly covered by the instructions actually given. We review the trial court's decision not to grant a jury

instruction under an abuse of discretion standard." *Gimble v. State*, 198 Md. App. 610, 627 (2011) (citations omitted).

An abuse of discretion occurs when the decision is "'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" *Bazzle*, 426 Md. at 549 (quoting *Stabb*, 423 Md. at 465). To constitute an abuse of discretion, the court's decision must be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *King*, 407 Md. at 697.

In the case at hand, there is no dispute about the propriety of the pattern jury instruction on accomplice liability. Benson's contention focuses on the propriety of the bank robbery example given by the court.

Maryland trial courts are strongly encouraged to use the pattern jury instructions. *Johnson v. State*, 223 Md. App. 128, 152, *cert. denied*, 445 Md. 6 (2015); *see also Yates v. State*, 202 Md. App. 700, 723 (2011) ("[t]his Court has recommended that trial judges use the pattern instructions"), *aff'd*, 429 Md. 112 (2012); *Minger v. State*, 157 Md. App. 157, 161 n.1 (2004) ("[a]ppellate courts in Maryland strongly favor the use of pattern jury instructions"); *Green v. State*, 127 Md. App. 758, 771 (1999) ("the wise course of action is to give instructions in the form, where applicable, of our Maryland Pattern Jury Instructions").

Nevertheless, in instructing a jury, a trial court is not prohibited from giving examples of alternative ways in which a crime can be committed. In *Roary v. State*, 385 Md. 217 (2005), the Court of Appeals addressed the use of examples:

> In the present case . . . the trial court gave examples of alternative ways in which the crimes charged could be proven. Although we are of the opinion that the jury instructions regarding the law without the examples was sufficient to inform the jury, we find no reversible error in the examples given by the court. All of the examples given were correct statements of the law and caused no harm to the defendant.

Roary, 385 Md. at 241.

As the Court of Appeals was in *Roary*, we are convinced that the jury instruction on accomplice liability, without additional examples, was sufficient to inform the jury about the law of accomplice liability. Nevertheless, we find no reversible error in the examples given by the court. The bank robbery example was a correct statement of the law and was not confusing, and Benson has given us no reason to conclude that it caused him any harm.

JUDGMENTS OF THE CIRCUIT COURT FOR CHARLES COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.