

Circuit Court for Baltimore City
Case No. 119046009

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2635

September Term, 2019

AARON SCOTT

v.

STATE OF MARYLAND

Graeff,
Zic,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 1, 2021

*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.

Following a jury trial in the Circuit Court for Baltimore City, Aaron Scott, appellant, was convicted of second-degree murder and carrying a dangerous weapon openly with intent to injure. His sole claim on appeal is that the trial court erred in preventing him from eliciting relevant evidence while cross-examining the victim’s girlfriend, Natassja Brown. For the reasons that follow, we shall affirm.

At trial, Ms. Brown testified that the victim left her apartment following an argument. However, once the victim was outside the apartment building, they continued to talk to each other through an open window in her apartment. While they were talking, Ms. Brown observed appellant approach the victim and stab him with a knife. Ms. Brown testified that appellant had previously been in her apartment, witnessed a portion of her argument with the victim, and told her that he would “handle it.” Following the stabbing, Ms. Brown called the police, picked up a knife, chased appellant, and confronted him. Appellant told Ms. Brown that he did not like how the victim had treated her, and that he had “saved [her] life.” He then became agitated and threatened to stab Ms. Brown, at which point she went back to her apartment to wait for the police to arrive.

When defense counsel cross-examined Ms. Brown, the following exchange occurred:

[DEFENSE COUNSEL]: Can you describe the knife [that you picked up] please?

BROWN: Huh?

[PROSECTUOR]: Objection, Your Honor.

[THE COURT]: Sustained.

After the court sustained the objection, defense counsel did not make an offer of proof.

Later at trial, the medical examiner testified that the victim’s wounds were consistent with having been caused by a “single edge knife.” Appellant now contends on appeal that the court erred in not allowing him to elicit a description of the knife from Ms. Brown because it was “relevant to whether [he] committed the stabbing because it could have shown that [Ms.] Brown possessed a knife that was consistent with the murder weapon thus making [his] guilt of the offenses less likely.”¹

Maryland Rule 5–103(a)(2) provides that appellate error may not be predicated upon a ruling that excludes evidence unless “the substance of the evidence was made known to the court by offer on the record or was apparent from the context within which the evidence was offered.” Thus, “a formal proffer of the contents and relevancy of the excluded evidence must be made in order to preserve for review the propriety of the trial court’s decision to exclude the subject evidence.” *Merzbacher v. State*, 346 Md. 391, 416 (1997).

When defense counsel asked Brown to describe the knife, the State objected, and the court sustained the objection. Counsel then continued questioning the victim about other matters. Based on our review of the record, the relevance of defense counsel’s inquiry was not clear when he questioned Ms. Brown because the medical examiner had

¹ We note that this argument overlooks the fact that surveillance footage introduced at trial did not show Ms. Brown leaving the apartment building until after the victim was stabbed. Moreover, the State introduced a 911 call made by the victim immediately after his stabbing, wherein he told the 911 operator that he did not know his assailant.

not yet testified about the nature of the victim’s wounds. And defense counsel did not make a proffer as to the content and materiality of the excluded testimony. More importantly, even if it had been clear what counsel was trying to accomplish by his question, the record is devoid of any indication as to how Ms. Brown would have responded. Consequently, this issue is not preserved for our review. *See Merzbacher*, 346 Md. at 416 (holding that where the witness did not answer the question after the trial court sustained the State’s objection, a proffer was required to preserve the propriety of the trial court’s decision to exclude the evidence because the witness “could have answered the question in any number of ways,” and the Court of Appeals was “in no position . . . to discern what that answer may have been, whether favorable or unfavorable to the defense”).

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