

Circuit Court for Baltimore City
Case No. 119003009

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2637

September Term, 2019

JORDAN MOODY

v.

STATE OF MARYLAND

Fader, C.J.,
Wells,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Raker, J.

Filed: February 16, 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

Jordan Moody, appellant, was convicted by a jury in the Circuit Court for Baltimore City of murder in the first degree, use of a handgun in the commission of a crime of violence, and unlawful possession of a firearm after a disqualifying conviction, related to victim Keith Patterson. The jury convicted appellant of attempted first-degree murder and use of a firearm in the commission of a crime of violence related to a second victim, Michael Blue. The jury convicted appellant of reckless endangerment of a third victim, Kushal Sangrula. He presents the following questions for our consideration:

- “1. Did the trial court abuse [its] discretion by denying Appellant’s motion in limine seeking to exclude testimony from the State’s witness, Michael Blue?
2. Did the administrative judge abuse [her] discretion by denying a request for postponement of trial?
3. Did the trial court err by admitting hearsay during the testimony of Kecia Liverpool?
4. Did the trial court abuse [its] discretion by ruling that a recorded telephone conversation was admissible in evidence?
5. Did the court below abuse discretion by denying defense counsel’s motion for a mistrial?
6. Is the evidence legally sufficient to sustain Appellant’s conviction for attempted first degree murder of Michael Blue and use of a handgun in that offense?
7. Did the court below abuse [its] discretion by denying Appellant’s motion for a new trial?”

We shall affirm.

I.

Appellant was indicted by the Grand Jury for Baltimore City for the commission of violent offenses and firearm violations related to three victims, Keith Patterson, Michael

Blue, and Kushal Sangrula. The jury acquitted appellant of six offenses¹ and convicted him of first-degree murder of Keith Patterson, attempted first-degree murder of Michael Blue, and reckless endangerment of Kushal Sangrula, along with firearm violations. The court imposed the following sentences: for murder of Keith Patterson, incarceration for life; for attempted murder of Michael Blue, incarceration for life, to be served concurrently; for use of a handgun in the commission of a crime of violence, twenty years, to be served consecutively; for possession of a firearm after a disqualifying conviction, fifteen years, to be served consecutively; for reckless endangerment of Kushal Sangrula, five years, to be served concurrently.

This case arises from a shooting that occurred in the early morning hours of December 31, 2016, outside the establishment known as Robbie’s Nest, 4250 East North Avenue, Baltimore. Richard Beard, an off-duty lieutenant who worked at the Maryland Division of Corrections, witnessed a shooting at that location. He saw a gunman (whom he could not identify) running behind two men, shooting. One man fell to the ground, and the gunman fired a second shot while standing over him. The gunman then fired at another person standing outside of the bar, who yelled, “Whoa, it’s me.” The gunman fled on foot and Mr. Beard called 911. The victim, Mr. Patterson, died from seven gunshot wounds, two of which injured his heart and major blood vessels.

¹ Appellant was acquitted of two counts of attempted first-degree murder, two counts of attempted second-degree murder, and two counts of first-degree assault.

The State’s theory of the case was that the shooting stemmed from an earlier encounter inside the bar over a seat at the bar. Guillermo Contreras, a bartender at Robbie’s Nest, testified that he saw customers engaging in a fight and that, after “something” happened outside, a bullet entered the bar — narrowly missing Kushal Sangrula, an employee working at the carryout window. Mr. Contreras called the police, and when they arrived, he showed them video surveillance footage. From the video, Mr. Contreras identified Kecia Liverpool, Keith Patterson and another customer who took Mr. Patterson’s seat after he had gotten up. Sometime later, from a photograph, Mr. Contreras identified appellant as the customer who had been in the argument with Mr. Patterson. A crime scene technician photographed the scene and collected twelve spent 9 mm Luger cartridge cases, which a firearms examiner later determined all had been fired from the same gun.

The police interviewed several people. Detective Jonathan Jones, the primary investigator, interviewed a man nicknamed “B-Why” as a suspect because he saw him on the video fighting with and dragging Keith Patterson outside the bar that night. After speaking with him, Detective Jones identified a different suspect: a man portrayed in the video holding a handgun in his left hand, running toward the front of the bar immediately before the shooting, and running away after the shooting, still holding the gun in his left hand. On January 13, 2017, the police released a photograph of this other suspect to the media. Kecia Liverpool, a bar patron and friend of Keith Paterson, gave the detective the name “Early” as the patron who took Keith Patterson’s seat at the bar. Then, the case went cold.

On November 15, 2018, Detective Jones received a Metro Crime Stoppers tip indicating that appellant, Jordan Moody, was the person shown in the media photograph. Kecia Liverpool and Guillermo Contreras both identified appellant. Detective Jones determined that appellant was left-handed. Later, while appellant was in custody prior to trial, in a telephone conversation recorded by the jail authorities, a party identified appellant by his middle name, “Earl.” Keisha Liverpool² identified appellant as the man who took Mr. Patterson’s seat at the bar and who argued with him before the shooting. She knew appellant as “Early.”

At trial, Michael Blue testified that Keith Patterson was his older brother. He testified that he met his brother at Robbie’s Nest late in the evening of December 30, 2018. He participated in the altercation in which “B-Why” was beaten and dragged out of the bar. Outside the bar, Michael Blue heard gunshots and he ran to escape. Upon returning to the scene, he discovered that his brother was dead.

On the first day of trial, defense counsel moved *in limine* to exclude the testimony of Michael Blue based upon an alleged discovery violation, *i.e.*, that the prosecutor disclosed the identity of Mr. Blue (a victim and witness), previously listed as “John Doe,” fifteen days before trial and disclosed his statement the same day as jury selection. The prosecutor responded that he had discovered the identity of Mr. Blue while speaking with Mr. Patterson’s wife prior to trial and that he had sent notice to defense counsel by e-mail

² Ms. Liverpool testified, on cross-examination, that she had stabbed a man who had accused her of being the reason why Mr. Patterson had been killed. She pled guilty to assault, and after her release, she spoke with Detective Jones and identified appellant.

the same day he learned of the witness's identity. He told the court that the witness was located on the night before the first day of trial, served with a subpoena, and then at lunchtime on that first day of trial met with a detective who took a recorded statement from him. Mr. Blue, according to the prosecutor, would testify at trial, but could not identify appellant.

In ruling against defense counsel's motion to exclude Mr. Blue's testimony, the court found no discovery violation and no bad faith on the part of the State. The court explained as follows:

"I don't think the State can produce what they don't have, that it's been timely produced once it was available to the State, and there's nothing based upon what the State has said that makes me believe that there was any bad faith or ill motive or a strategy in strategically not having it until the last minutes, so as to disadvantage the defense."

Defense counsel set out the alleged prejudice to the defense, stating as follows:

(1) defense counsel did not have Michael Blue's recorded statement to the detective; (2) defense counsel did not have the opportunity to investigate the background of Mr. Blue; (3) defense counsel could not prepare to cross-examine this witness; and (4) Mr. Blue's expected testimony would "establish facts for the State that otherwise I think could be in dispute." Defense counsel conceded to the court that the prosecutor did not act in bad faith but nonetheless the information should have been turned over earlier. The prosecutor offered to delay calling this witness from Friday to the following Tuesday. The court denied the motion *in limine*. Defense counsel went to the administrative judge and requested a continuance of the trial, based on the late disclosure of Mr. Blue. On Tuesday,

when the State called the witness, counsel renewed his motion. The court noted that defense counsel had met with Mr. Blue on Friday and denied again the motion to exclude the testimony.

Kecia Liverpool testified as a witness, called by the State. On cross-examination by defense counsel, she admitted that she had stabbed Mr. Jamal Carruthers in the stomach during an argument and that their dispute started when Mr. Carruthers accused her as the one responsible for Keith Patterson's death. On redirect, the State asked Ms. Liverpool what Mr. Carruthers had said that prompted her response that day. Over defense counsel's objection that the response would be hearsay, Ms. Liverpool stated "Well, you know, everybody's saying that it's over you."

The State offered evidence, through the testimony of Detective Jones, of a recorded telephone call made by appellant from the jail. Appellant objected on the basis of the timing of the disclosure of the call, calling it a discovery violation, not relevant, unfairly prejudicial because it indicated that appellant was in custody, and cumulative evidence. The judge overruled defense counsel's objection, ruling as follows:

"Well, I'm not convinced that it is so highly prejudicial. I'm not convinced that the jury knowing that, and particularly in this case, in March he made a phone call from a correctional institution. I think juries expect that, except for well-heeled Defendants, people facing murder charges are in jail. I think that's what they expect, except for well-heeled. So I'm going to respectfully deny your—overrule your objection."

Detective Jones testified, *inter alia*, that on March 29, 2019, he listened to a recorded telephone call made prior to trial from a correctional institution, and he recognized the speaker to be appellant. In that call, appellant was identified as "Earl" and appellant stated

that “it was hitting on somebody else’s lady that got him in that situation that he’s in.” Defense counsel moved for a mistrial, based upon the prosecutor’s disclosure of evidence close in time to the trial. The court denied the motion.

The jury convicted appellant as indicated above, the court imposed sentence, and this timely appeal followed.

II.

Before this Court, appellant argues that the errors of the trial court are not harmless and warrant reversal. His arguments on many of the grounds that he asserts are overlapping. He asserts that the trial court abused its discretion in denying appellant’s motion *in limine* to exclude the testimony of Mr. Blue, because the late disclosure, on the day of trial, deprived appellant of the opportunity to investigate the witness and to prepare for cross-examination. Connected with the allegation of error, he argues that the administrative judge abused her discretion in not granting appellant’s motion to postpone the trial. Appellant maintains that the trial court erred in admitting inadmissible hearsay evidence in the testimony of Ms. Liverpool. Appellant argues that the prosecutor sought to introduce the statement as to why Ms. Liverpool assaulted Mr. Carruthers because it provided a motive as to why appellant killed Mr. Patterson, and reinforced the theory that the conflict began with the seating incident at the bar. As to the telephone call from the jail, appellant argues that the trial judge erred in several ways. First, that the evidence was unduly prejudicial because it disclosed to the jury that appellant was in a correctional

facility prior to trial. Next, he recognizes that the trial court did not rule on his other asserted objections, but argues that the court erred in admitting the evidence — because the late disclosure by the State was a discovery violation, the evidence was not relevant, appellant’s statement was ambiguous and not an admission of guilt, and the evidence was cumulative. As to the mistrial motion, appellant argues that for all the reasons stated above the court abused its discretion in denying the motion. Appellant argues that the evidence is insufficient to sustain the judgments of convictions for attempted first-degree murder of Michael Blue and use of a handgun in that offense. He maintains that the evidence was insufficient to show, in the first instance, that appellant was the gunman, and that, assuming appellant was the shooter, the evidence was insufficient to establish that he had the premeditated, deliberate intent to shoot Michael Blue. Finally, appellant argues that the trial court erred in denying his motion for a new trial, on the grounds that the administrative judge should have granted the postponement.

According to the State, the prosecutor did not violate the discovery rules and disclosed the information timely and as soon as the information became known to the State.³ Even assuming *arguendo* that there was a discovery violation, defense counsel conceded that the prosecutor did not act in bad faith; and absent bad faith, exclusion of the evidence is not mandated and any remedy is within the discretion of the trial court. Here, the judge took appropriate remedial action by delaying the testimony of the witness,

³ The State points out that the State made Blue available for interview by defense counsel and provided a full criminal background history of Blue.

thereby giving defense counsel the opportunity to interview the witness and to prepare for trial. As to the administrative judge's denial of appellant's postponement request, the State argues that the administrative judge exercised her discretion properly in finding no good cause for the postponement, after considering the trial judge's remedial action and the facts underlying the motion. Regarding the testimony of Kecia Liverpool, her testimony was not hearsay because it was not offered for the truth of the matter asserted, but instead was offered in response to defense counsel's question on cross-examination, "What is it that Mr. Carruthers was saying that prompted your response then?" In the State's view, the statement was not offered to show that Mr. Patterson was killed because of Ms. Liverpool, but to explain why Ms. Liverpool stabbed Mr. Carruthers.

As to appellant's mistrial motion, the State argues that under the particular facts herein, the mistrial motion was either waived or forfeited. When counsel first moved for a mistrial at the beginning of the last day of trial, the judge asked counsel if he wished to be heard on the motion. Defense counsel said: "I will reserve...and defer that [to] later." After closing arguments, the court raised the issue and defense counsel reiterated his request for a mistrial. The court denied the motion, explaining that counsel did not ask to be heard on the motion, that it was now moot, and because counsel elected to proceed with the trial it was now denied.⁴

⁴ In denying the mistrial motion, the court stated as follows: "I think, at this point, we had an opportunity before we went to instructing the jury and arguments this morning; when I asked while the State was still presenting evidence, you didn't want to be heard on it. You didn't ask to be heard on it again. So to the extent that we have moved past the State's case, past the defense case, and about to hand it off to the jury, I'm going to deny the motion. It

Addressing appellant’s sufficiency of the evidence argument, the State maintains first that the argument that the evidence was insufficient to show that appellant was the gunman is not preserved for our review because he did not raise that argument in his motion for judgment of acquittal. As to the merits, the State maintains that the evidence, both direct and circumstantial, was sufficient to support the conviction. According to the State, the video and testimony describing the shooter established beyond a reasonable doubt that appellant was the shooter. As to intent, according to the State, the evidence was sufficient to enable the jury to infer the requisite intent of appellant.

III.

A. *Denial of Motion in Limine and Motion to Postpone Trial*

We address first appellant’s arguments related to the trial court’s denial of the motion *in limine* to exclude testimony from the State’s witness Michael Blue, and related to the administrative judge’s denial of his motion to postpone the trial. We reject appellant’s argument on two grounds: first, as the trial court found, the State did not commit a discovery violation; second, even if there was a violation, exclusion of the witness’s testimony was not a required remedy. We review *de novo* whether the State violated the discovery rules. *Thomas v. State*, 168 Md. App. 682, 693 (2006). We review the trial court’s ruling on a request for sanctions under an abuse of discretion standard.

is, I believe, moot at this point, and even if it’s not, you proceeded to go forward and didn’t ask to renew the motion, so it’s denied at this point.”

Joyner v. State, 208 Md. 500, 524 (2012). We review the decision of an administrative judge to postpone a case for an abuse of discretion.

The trial judge considered defense counsel's motion to exclude Mr. Blue's testimony on the grounds that the late disclosure violated the discovery rules. Here, the prosecutor disclosed the information as soon as he discovered it. As the trial judge noted, one cannot disclose what one does not possess. There was no discovery violation. Moreover, even though the court found no discovery violation, the court took some remedial action, working with the State to schedule the testimony of the witness so that the defense could interview the witness and review Mr. Blue's criminal history before that testimony.

The administrative judge found no good cause to postpone the trial; in so finding, the court did not abuse its discretion. Every trial postponement must be ruled upon by the administrative judge or her designee. Rule 4-271(a). The administrative judge alone possesses the authority to postpone a case, for good cause. *Ross v. State*, 117 Md. App. 357, 364 (1997). The administrative judge heard arguments from counsel for the parties; the court knew that the trial judge worked out with the State that the witness would testify during the second week of trial, thereby giving defense counsel an opportunity to interview the witness and investigate his background; the State had provided the defense with the witness's criminal history; and, the judge was advised by the State that this witness would not identify appellant as the shooter.

B. Hearsay Testimony of Kecia Liverpool

Rule 5-801(c) defines hearsay as “a statement other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” A hearsay statement offered to prove its truth is inadmissible. Rule 5-802. We review whether a statement is hearsay *de novo*. *Bernadyn v. State*, 390 Md. 1, 8 (2005).

The trial court did not err in admitting the testimony of Ms. Liverpool repeating Mr. Carruther’s statement that prompted her to stab him. The particular statement appellant objects to was not hearsay because the State did not offer the statement for its truth. On cross-examination, the witness was asked by defense counsel about stabbing Mr. Carruthers. The State, on re-direct, asked the witness what Mr. Carruthers said that prompted her response. Ms. Liverpool’s answer was not hearsay — it was offered by the State to explain why she stabbed Mr. Carruthers, not as a reason why appellant killed Mr. Patterson. *See In re J.H.*, 245 Md. App. 605, 633 (2020); *Frobouck v. State*, 212 Md. App. 262, 283 (2013).

C. The Recorded Telephone Conversation

Appellant argues that the trial court abused its discretion in admitting the jailhouse recording of a telephone call made by appellant. He argues the evidence should not have been admitted because the State violated its discovery obligations in timely disclosing the call, the evidence was not relevant, the prejudice outweighed the probative value, and it was cumulative evidence. He complains that the trial court did not rule on each of his objections to the admissibility of the evidence, but ruled only on the one ground that the

evidence was unfairly prejudicial because it showed that appellant was incarcerated pre-trial.

We review the admissibility of evidence for an abuse of discretion. *Collins v. State*, 164 Md. App. 584, 608 (2005). The trial court is given wide latitude in controlling the admissibility of evidence. *Taneja v. State*, 231 Md. App. 1, 11 (2016). A court abuses that discretion when the court acts in an “arbitrary or capricious manner or when he or she acts beyond the letter or reason of the law.” *Id.*

We address first the objection that the court addressed in admitting the evidence — the unfair prejudice. This objection and ruling sweeps in the concept of relevancy. Under Maryland Rules of Evidence 5-401 through 5-403, to be relevant evidence must “[have] any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Rule 5-401. All relevant evidence is admissible, except as otherwise provided by constitutions, statutes, decisional law or the evidence rules. Rule 5-402. “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. . . .” Rule 5-403.

The trial judge did not abuse his discretion in ruling that the evidence was not unfairly prejudicial. Although not using “magic words” like “weighing,” the court clearly weighed the evidence for prejudice versus probative value. The court noted that jurors, using their common sense, likely would expect that a person charged with murder would be confined pre-trial, and that knowing a call was made by appellant from the jail was not

unfairly prejudicial. The evidence linked appellant as the shooter in the case. Without a doubt, that evidence was relevant.

The record does not reflect that the court addressed specifically appellant's objection on the grounds of cumulative evidence or discovery violation. Although not argued by the State, if the court failed to rule on an objection, it was incumbent upon defense counsel to insist upon a ruling. *State v. Williams*, 480 N.W.2d 390, 398 (Neb. 1992); Graham, Handbook of Federal Evidence § 103:2 (9th ed.). The general rule in appellate proceedings is that appellate review is limited to issues which have been decided or ruled upon by the trial court. *See* Rule 8-131. Although insistence upon a ruling is not always easy for counsel to do, a party who fails to insist upon a ruling to a proffered objection waives that objection. Because there was no ruling on appellant's discovery violation or cumulative evidence arguments, and because appellant did not insist upon a ruling on those grounds, his argument on those grounds is not properly before us.

Assuming that the trial judge was well aware of the rules of evidence and *sub-silento* rejected appellant's arguments on the grounds of a discovery violation and cumulative evidence, we shall address the issues on the merits. We hold that the court did not err or abuse its discretion. The State disclosed the existence of the phone call on the same day the State received it. There was no discovery violation. As to the cumulative nature of the evidence, appellant was referred to as "Earl" in the phone call, linking him for the first time to the person referred to as "Early" in the bar on the night of the shooting. The statement was also an admission because appellant stated that "it was hitting on somebody else's lady

that got him in the situation he’s in.” It was not unnecessarily cumulative or unfairly prejudicial.

D. Denial of Mistrial Motion

Appellant’s motion for a mistrial was based upon his arguments that he was prejudiced by the late disclosure of evidence. A decision to grant or deny a motion for a mistrial lies within the discretion of the trial judge, and will not be disturbed on appeal unless that discretion has been abused. *Simmons v. State*, 436 Md. 202, 212 (2013). Judge Alan Wilner, writing for a panel of this Court, described abuse of discretion as where no reasonable person would take the view adopted by the court, or when the court acts without reference to any guiding rules or principles. *North v. North*, 102 Md. App. 1, 13–14 (1994). “Because we give such deference to a trial court’s decision under the abuse of discretion standard of review, it is well established that ‘[t]he exercise of discretion ordinarily will not be disturbed by an appellate court.’” *Alexis v. State*, 437 Md. 457, 478–479 (2014). A mistrial is an extreme remedy and extraordinary measure. *Ezenwa v. State*, 82 Md. App. 489, 518 (1990).

The trial judge did not abuse her discretion in denying the motion for a mistrial. When given the opportunity by the court to argue the grounds for the motion, defense counsel demurred. He never renewed his motion and it only came up again because the court brought it up. As the court noted, counsel elected to let the State finish its case-in-chief, presented its own case, permitted the court to instruct the jury, and presented closing arguments. The motion, renewed by the court’s inquiry, was not timely. In any case, the

trial judge was in the best position to ascertain whether appellant had been prejudiced by the late disclosure of Mr. Blue as a witness. The court answered that question earlier, and the answer was the same later: “No.”

E. Sufficiency of the Evidence

We hold that the evidence was sufficient to support the judgment of conviction for attempted first-degree murder of Michael Blue and use of a firearm in that offense. In reviewing the legal sufficiency of evidence, we view the evidence in the light most favorable to the State and ask whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Coleman*, 423 Md. 666, 672 (2011). We defer to the fact-finder’s opportunity to assess the credibility of witnesses, weigh the evidence, and resolve the evidentiary conflicts. *Neal v. State*, 191 Md. App. 297, 314 (2010). We do not retry the case, we do not re-weigh the credibility of witnesses, and we do not attempt to resolve conflicts in the evidence. *Nicholson v. State*, 239 Md. App. 228, 252 (2018). Circumstantial evidence, as well as direct evidence, if believed, is sufficient to support a conviction. *Handy v. State*, 192 Md. App. 277, 306 (2010). And the testimony of a single eyewitness, if believed, is sufficient to support a conviction. *Marlin v. State*, 192 Md. App. 134, 153 (2010). The question before us is a limited one — whether the evidence possibly could have persuaded any rational factfinder beyond a reasonable doubt. *Allen v. State*, 158 Md. App. 194, 249 (2004).

As to Michael Blue, the question is whether the evidence was sufficient to prove, beyond a reasonable doubt, attempted first-degree murder and use of a handgun in the

commission of that crime. “A person is guilty of an attempt when, with intent to commit a crime, he engages in conduct which constitutes a substantial step toward the commission of that crime.” *Townes v. State*, 314 Md. 71, 75 (1988). Murder, a single common law crime in Maryland, is defined as “the killing of one human being by another with the requisite malevolent state of mind and without justification, excuse, or mitigation.” *Kouadio v. State*, 235 Md. App. 621, 627 (2018). Murder in the first degree, in pertinent part, requires proof that the death was “a deliberate, premeditated, and willful killing.” Md. Code Ann., Crim. Law § 2-201(a) (2002, 2012 Repl. Vol., 2018 Supp.). Use of a firearm in the commission of a felony or crime of violence is a statutory offense, defined by Crim. Law § 4-204, which provides that “[a] person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony, whether the firearm is operable or inoperable at the time of the crime.” To convict, the State must prove, beyond a reasonable doubt, that (1) a firearm was used by the defendant, and (2) that he used it in the commission of a felony or crime of violence. *Hoffert v. State*, 319 Md. 377, 379–805 (1990).

As to whether appellant was the shooter, this issue is not preserved for our review.⁵ Md. Rule 8-131 states that “[o]rdinarily the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.”

⁵ Even if this issue was preserved for our review, we would hold that the evidence was sufficient to support the judgment. Mr. Beard, an eyewitness, described the shooter as matching appellant, and, the surveillance video showed appellant with a gun before and after the shooting.

We review the claims of insufficiency of the evidence based upon the claims presented at the motion for judgment of acquittal, and review is available only for the specific reasons stated before the trial court. *Whiting v. State*, 160 Md. App. 285, 308 (2004). Appellant never argued that the evidence was insufficient as to criminal agency and instead argued only that the evidence was insufficient to prove the required intent for the crimes against Mr. Blue, Ms. Liverpool and Mr. Williams. As to the requisite intent, *i.e.*, willful, premeditated and deliberate, the evidence, albeit circumstantial, was sufficient to support the judgment. The testimony showed that appellant was running behind both victims, Mr. Patterson and Mr. Blue, and shooting at both of them. The police found four separate cluster casings, including one far past Mr. Patterson's body. As the State argued, the cluster casings indicated that appellant was firing at Mr. Blue as he was running away. Appellant shot at the victims twelve times, with at least three shots aimed at Mr. Blue. The jury could infer that appellant intended to shoot and kill both victims, and he had sufficient time to make that decision.

F. Motion for a New Trial

Finally, appellant argues the trial court abused its discretion by denying his motion for a new trial, on the sole ground that he was denied a fair trial because the administrative judge denied his postponement request. Whether to grant a new trial lies within the sound discretion of the trial judge and we review that decision for abuse of discretion. *Cooley v. State*, 385 Md. 165, 385 (2005). We have addressed above the arguments related to the exercise of the administrative judge's decision not to grant a postponement. The answer

hasn't changed. The administrative judge did not abuse her discretion in finding no good cause and in denying the motion to continue the case. Accordingly, the trial judge did not abuse her discretion in denying the motion for a new trial.

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