

Circuit Court for Baltimore City
Case No.: 117144006

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2839

September Term, 2018

RONALD GOINS

v.

STATE OF MARYLAND

Berger,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 27, 2020

*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.

A jury sitting in the Circuit Court for Baltimore City convicted Ronald Goins, appellant, of illegal possession of an assault weapon, for which the court sentenced him to a three-year term of imprisonment. Mr. Goins raises one question on appeal: “Did the trial court err by allowing the State to introduce inadmissible hearsay?” For the reasons to be discussed, we conclude that the court did not err, and, accordingly, we shall affirm the judgment.

BACKGROUND

At trial, Baltimore Police Detective Robert Neuens testified that in April 2017 he was assigned to the Warrant Apprehension Task Force and was tasked with serving a warrant on Mr. Goins. Upon receiving that assignment, Det. Neuens investigated Mr. Goins and that investigation “led to the location of 208 Diener Place.” On April 12, 2017, about 9:00a.m., Detective Neuens responded to 208 Diener Place, a small three-story apartment building with a single front entrance used to access the individual apartments. After watching the building for about 30 minutes, Detective Neuens observed a man “that looked exactly like Mr. Goins” exit the building, cross a field, and head on foot towards Frederick Avenue. Detective Neuens and his partner then drove to Frederick Avenue, located and positively identified the man as Mr. Goins, and arrested him. After the arrest, Detective Neuens testified that he contacted Detective Melvin Jones.

Detective Vernon Fuller testified that on April 12th he prepared an application for a search warrant for 208 Diener Place, Apartment 102 and then presented the application to a District Court of Maryland judge, who issued the warrant. In the meantime, the apartment “was secured by patrol units.”

Police Officer Jeffrey Santos testified that on April 12th, he was directed to respond to 208 Diener Place, Apartment 102, to “secure the home” pending the execution of a search warrant. When he arrived, Octavia Kelly was the only person in the apartment. A few hours later, detectives arrived with the search warrant.

Detective Fuller, along with Detective Michael Gausens, Detective Jones, and other police personnel, arrived at 208 Diener Place, Apartment 102 “early in the afternoon” of April 12th to execute the warrant. Upon their arrival, Ms. Kelly and two patrol officers were the only persons in the sparsely furnished apartment. Their search resulted in the seizure of an AK-47 assault rifle, which was located in a black bag on top of a furnace in a utility closet. The weapon, later determined to be operable, included a magazine holding 24 rounds of ammunition and was “locked in place ready to go.” A single round “that goes to a casing used for ammo” was also found on the floor of the living room. “[M]ale shoes, male clothing” were found in a closet in the apartment.

Virginia Sladko, a Forensic Scientist II and DNA analyst with the Baltimore Police Department, testified that testing of the AK-47 rifle “yielded a DNA mixture of at least four contributors” and “the magazine and the 24 live cartridges” “yielded a DNA profile consistent with a mixture of at least three contributors.” Ms. Sladko testified that Mr. Goins’s DNA “matched” the DNA recovered from the rifle, the magazine, and the ammunition.

As other witnesses had, Detective Fuller testified that Ms. Kelly was the only non-police personnel present when he arrived at Apartment 102. His testimony continued:

[PROSECUTOR]: You mentioned Octavia Kelly, do you, if you know, what, if any, relation does she have to Ronald Goins?

[DEFENSE COUNSEL]: Objection, Your Honor.

THE COURT: If you know of your own personal knowledge I will allow you to answer the question.

[DEFENSE COUNSEL]: Your Honor, may we approach?

THE COURT: No.

DET. FULLER: Yes, I do. During the course of my investigation she was known to be Mr. Ronald Goins’s girlfriend.

[DEFENSE COUNSEL]: Objection, Your Honor.

THE COURT: Overruled.

DISCUSSION

Mr. Goins contends that the trial court erred in overruling the objection to Det. Fuller’s testimony that Ms. Kelly was his girlfriend because that testimony was inadmissible hearsay. He asserts that “Det. Fuller recounted specific information that he gathered in the course of his investigation, i.e., that Ms. Kelly was Mr. Goins’ girlfriend” and that “specific information was offered as evidence of the fact asserted, and thus, was hearsay . . . not subject to any hearsay exception[.]” He further maintains that the admission of this evidence was not harmless beyond a reasonable doubt because (1) “throughout closing argument” the State “repeatedly relied on the assertion that Ms. Kelly was Mr.

Goins’ girlfriend to bolster its case”¹ and (2) during its deliberations, the jury sent a note asking whether the State could have subpoenaed Ms. Kelly to testify and inquiring as to whose name was on the apartment lease.

The State responds that the “record did not show that the challenged testimony was premised on inadmissible hearsay and, therefore, the trial court had no basis for sustaining Goins’s objection on hearsay grounds.” The State points out that Det. Fuller’s testimony did “not show the source of [his] knowledge or, specifically, that it was an out-of-court ‘statement.’” In other words, “the record actually presented to the trial court did not show how the relevant information became ‘known’ during the detective’s ‘investigation[.]’” The State further points out that the defense did not cross-examine Det. Fuller and hence maintains it lost its opportunity to inquire as to the source of Det. Fuller’s testimony that Ms. Kelly was Mr. Goins’s girlfriend. If the defense had done so, the State asserts that upon learning the objectionable testimony was, in fact, based on inadmissible hearsay, the defense could have moved to strike it.

Ordinarily, we review a trial court’s rulings as to the admissibility of relevant evidence pursuant to the abuse of discretion standard. *See Wagner v. State*, 213 Md.App. 419, 453-54 (2013). “Review of the admissibility of evidence which is hearsay is different. Hearsay, under our rules, must be excluded as evidence at trial, unless it falls within an exception to the hearsay rule excluding such evidence or is permitted by applicable

¹ We note that the State mentioned the testimony that Ms. Kelly was Mr. Goins’s girlfriend for the first time in its rebuttal closing argument, after the defense, in its closing remarks, emphasized that the State had failed to present any evidence that “puts Ronald Goins in Apartment 102 on April 12, 2017.”

constitutional provisions or statutes.” *Thomas v. State*, 429 Md. 85, 98 (2012) (emphasis omitted) (quoting *Bernadyn v. State*, 390 Md. 1, 7-8 (2005)). Accordingly, a trial court has no discretion to admit evidence that is hearsay, unless the evidence qualifies as an exception. *Id.* Whether evidence constitutes hearsay is an issue of law, which we review *de novo*. *Gordon v. State*, 431 Md. 527, 533 (2013) (citing *Bernadyn*, 390 Md. at 8).

Hearsay “is 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.” Rule 5-801(c). “A ‘statement’ is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.” Rule 5-801(a).

Here, the prosecutor asked: “You mentioned Octavia Kelly, do you, if you know, what, if any, relation does she have to Ronald Goins?” Before the witness could respond, defense counsel objected. The court then informed the witness that, “If you know *of your own personal knowledge* I will allow you to answer the question.” (Emphasis added.) Det. Fuller then testified: “*Yes, I do.* During the course of my investigation she was known to be Mr. Ronald Goins’s girlfriend.” (Emphasis added.) We agree with the State that, on its face, the detective’s testimony was not based on a “statement” of another made out-of-court. He made no reference to obtaining the information from an informant, through an interviewee, or by “information received,” thus distinguishing this case from those relied upon by Mr. Goins in his brief. Instead, the record only reflects that, during the course of his investigation, Ms. Kelly “was known” to Det. Fuller to be Mr. Goins’s girlfriend. We decline to speculate on how Det. Fuller came to know this information and without

knowing that answer, we cannot determine whether his testimony was inadmissible hearsay.

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